# SENATE—*Monday, April 21, 1986*

The Senate met at 12 noon and was called to order by the Honorable LARRY PRESSLER, a Senator from the State of South Dakota.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

*I will praise thee, O Lord, with my whole heart; I will shew forth all thy marvellous works. I will be glad and rejoice in thee: I will sing praise to thy name, O thou most High.*—Psalm 9:1–2.

God of grace and glory, we praise You—we adore You. We add nothing to You when we worship You for You are infinitely and eternally self-sufficient. But we add to ourselves: we deepen our dignity—we enlarge our horizons—we expand our vision—we nourish our souls—we purify our imagination—we heighten our perspective—we increase our hope—we celebrate our humanness—we edify our whole being. Worthy are You to receive all glory and honor and praise. Hallelujah. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, April 21, 1986.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LARRY PRESSLER, a Senator from the State of South Dakota, to perform the duties of the Chair.

STROM THURMOND,
*President pro tempore.*

Mr. PRESSLER thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

## SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, to be followed by special orders not to exceed 5 minutes each for Senator HAWKINS—her statement will be read by Senator COCHRAN today—Senator PROXMIRE, and Senator CRANSTON, and then routine morning business not to extend beyond the hour of 1 p.m. with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, the Senate could be asked to turn to any of the following items:

The executive nomination of Donald Newman. It is my understanding there are still some responses that have not been received from a couple of Senators who have concerns with that nomination. It would be my hope that we could pass the sense-of-the-Senate concurrent resolution on farm credit. I think it would be helpful and it would underscore some of the actions already taken by the regulatory agencies. I cannot believe there would be any opposition to that. Also, any other Legislative or Executive Calendar items cleared for action.

I have indicated earlier, there would be no votes today, but it does not mean we cannot proceed with these matters. There is some likelihood we could begin work on the budget resolution today. If that were the case, that would take several hours.

If we do proceed on the budget, by law there are 50 hours for debate. It would be my hope that, if we do start on it this week, after we are into it for a few days, we could have an agreement to reduce the time. I hope we would not need 50 hours. But, if not, it would be my hope that we could go fairly late in the evenings, except for Wednesday evening, and we would count on a full day on Friday. But I will have additional information on that before the day is out.

## THE ROAR OF EUROPEAN HYPOCRISY

Mr. DOLE. Mr. President, I want to call to the attention of the Senate an excellent column by Richard Cohen which appeared in yesterday's Washington Post. I would ask unanimous consent that it be printed in the RECORD at the conclusion of my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. President, the column, entitled, "The Roar of European Hypocrisy," expresses the deep disappointment and exasperation being felt by many Americans at anti-American demonstrations and marches in several European countries in the aftermath of the Libyan bombing. While acknowledging that Europeans do have a legitimately different perspective on the Libyan question, Cohen also notes:

> . . . (The demonstrators) cannot treat the bombing as if it were an unprovoked, irrational act—as if it had not been preceded by many bombings, years of carnage, and a constant plea from the United States to the European nations to punish Libya economically. . . . European anti-Americanism is plain to the ear. The sound of silence has been replaced by the roar of hypocrisy.

Mr. President, our alliance with the nations of Western Europe is of fundamental importance to us and to our security. But an alliance is a two-way street. And it should be an alliance against all forms of aggression which threaten us—including international terrorism.

Prime Minister Thatcher's government understands that. Hopefully, the other governments of Western Europe, and those Europeans who have participated in these anti-American demonstrations, will soon open their eyes and realize it, too.

And let them realize this, as well. We hope the risk and sacrifice we have unilaterally undertaken this time will spur them to join us in an effective common front against terrorism. But if it does not, if they continue to close their eyes to the real threat from Qadhafi and others of his ilk, then we are prepared to act again. With as many as will join us. Alone if necessary. That is our right. And that is a responsibility—to our own people and to civilized people everywhere—that we intend to fulfill.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

[From the Washington Post, Apr. 20, 1986]

THE ROAR OF EUROPEAN HYPOCRISY

(By Richard Cohen)

On July 10, 1985, the Greenpeace ship Rainbow Warrior threatened to sail into the South Pacific to thwart a French nuclear test. While the ship was in New Zealand waters, France responded. Government agents blew up the ship, killing one person on board.

For this act of murder, the appropriate French officials have been reprimanded and those without high rank or political protection prosecuted. For a more cynical use of state power you would have to look pretty hard. But the Champs Elysées did not swell with roaring chants of indignation, and nowhere else in Europe did people take to the streets. No, Europe saves that for the United States.

Now Europe is in a snit about the U.S. bombing of Libya. President Reagan is once again being caricatured as a shoot-from-the-hip cowboy who, in true Western fashion, reached for his six-shooter when the time came to parley. You would think that

Reagan had chosen his target by throwing a dart at a map: Bingo! Hit Libya.

The Europeans have their concerns. One of them is economic. Italy, the former colonial power in Libya, does a fair amount of business with it. All the major European countries have citizens who work in Libya, and some of them have substantial construction projects under way. Reagan made sure to warn Americans to get out of Libya; the European countries have issued no such warning to their own citizens.

But the major European concern is terrorism itself. Many Europeans are afraid that retaliating against Mu'ammar Qadhafi is like poking a snake with a stick. This is hardly an irrational fear. In the last year alone, there have been two terrorist incidents in Spain, six in France, three in Greece, four in Germany, three in Italy and one in Austria. Whatever the eventual result of the U.S. bombing might be, in the short term there will be an upsurge of terrorism. Many Americans, quick to condemn European timidity, have themselves canceled plans to travel abroad this summer. For Europeans, things are not so simple. They are already abroad.

Still, those Europeans who are so quick to demonstrate against the United States ought to ask themselves why they did not do the same when the Rome and Vienna airports were littered with the bodies of 16 persons killed by terrorists. Where were they when three members of one American family were blown out of a plane over Greece? Why no widespread European indignation when 18 Spaniards were killed in the Madrid bombing of a restaurant frequented by U.S. servicemen?

Where was the march for the bombing last month that killed two persons in Paris, the one Feb. 5 in a Parisian shopping mall, the bomb that exploded in a crowded Latin Quarter bookstore the day before or the one that exploded Feb. 3 on the Champs Elysées, wounding eight persons? Who marched for the Achillo Lauro and Leon Klinghoffer, for the TWA hijacking and Navy diver Robert Stethem or for the 57 who died when commandos botched an attempt to free the passengers on an Egyptair plane forced to land on Malta? No one, that's who.

It's true that not all these terrorist incidents can be traced to Libya—not even most of them—and it's true also that in both France and Italy there were public protests against terrorism directed against Jewish targets. But by and large those Europeans who are inclined to exhibit their political opinions by marching did not hit the road until U.S. bombs hit Tripoli. Then, as if the event took place in a vacuum, a roar came up from the pavement.

You can argue over the wisdom of the bombing. You can argue over the manner of its execution. You can fear for American standing in the Middle East, for whether the lessons of Libya will be misapplied to Nicaragua. But you cannot treat the bombing as if it were an unprovoked, irrational act—as if it had not been preceded by many bombings, years of carnage and a constant plea from the United States to the European nations to punish Libya economically. The response was a cynical shrug of the shoulders by those same European nations.

There are a thousand concerns to be voiced. But you cannot voice an outrage that does not take into account all that went before—terrorist acts all over the world and, finally, the one that took the life of an American soldier April 5 in West Berlin. European anti-Americanism is plain to the ear. The sound of silence has been replaced by the roar of hypocrisy.

## UNITED STATES-EUROPEAN ECONOMIC COMMUNITY AGRICULTURAL TRADE DISPUTE

Mr. DOLE. Mr. President, speaking of some of the European countries, I would only indicate that we have another matter involving the European community, and that is the agricultural trade dispute.

Mr. President, I have not yet had a report on the United States-European Economic Community talks on agricultural trade over the weekend from either Secretary Lyng or Ambassador Yeutter. From the press accounts, however, it looks like little progress was made in defusing tensions over the EEC's announced restrictions on imports of United States soybean products and grain sorghum by Spain and Portugal. Under the circumstances, the administration has stated its intention to impose restrictions on a similar value of EEC farm exports, beginning on or about May 1.

Last week, the Senate passed a resolution fully supporting the administration's position on United States-European Economic Community agricultural trade, and endorsing retaliatory action if the EEC refuses to negotiate compensation prior to imposing these controls. I hope our friends in Western Europe appreciate the great sensitivity of this issue for U.S. farmers and others dependent on farm exports—a concern which has only been heightened by our longstanding dispute over the EEC's uncontrolled use of export subsidies in agricultural trade.

Descending into a trade war at this time of extreme protectionist pressure would undermine our otherwise cordial relations with the EEC. It would also throw another obstacle in front of our efforts to initiate a new round of multilateral trade negotiations under the General Agreement on Tariffs and Trade.

Mr. President, having said that, it is my hope that we will for once demonstrate to our friends in the EEC that we also are plagued by farm problems. We also have great distress in the Farm Belt of this country, and I hope Ambassador Yeutter and Secretary Lyng will stand firm in an effort to protect the American farmer.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished minority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

## TERRORISM IS NOT AN AMERICAN PROBLEM ALONE

Mr. BYRD. Mr. President, I believe that most Americans have reached a point of outrage over the terrorist acts sponsored or supported by Mr. Qadhafi, the Libyan leader.

We all recognize and acknowledge the debt that we owe to members of our Armed Forces who carried out the President's command, and to the families of the two airmen who sacrificed their lives on that mission.

In talking to West Virginians, I see a strong crosscurrent of concern about the aftermath of our response. We have seen a predictable rise in terrorist incidents against Americans, and against our British allies.

As the President and his advisers have noted, one action will not end the war on terrorism. In the aftermath of our action with Libya, we have to be certain that we have a policy that will serve us for over time. I was concerned at the time of the briefing of the leadership in the old Executive Office Building that the administration consider carefully its plans for the future in regard to acts of terrorism.

I have written to the President to urge that terrorism be given a high priority at the economic summit in May. This is a rare occasion for the leaders of the great industrial democracies to meet, and to take action in areas of shared interest. We should not pass up this opportunity to try to rebuild a consensus on terrorism. The fact that France and Spain barred American aircraft from their air space is, of course, a disappointment. And it is confusing, given that France itself has taken direct military action against Libya.

Last week, German Prime Minister Kohl reversed himself and announced that he agreed with American evidence linking Libya to the bombing in Berlin that killed two persons, one an American serviceman. It is obvious that terrorism is not an American problem alone.

Our European allies were right to be concerned about Libyan and Libyan-provoked retaliation for our raid. They are closer to the threat, and much more likely to be its victims. But I cannot understand how our allies can reject both our military and our nonmilitary forms of actions against the Libyan Government. I am sure that many Americans have been disappointed that our European allies have refused to participate in any meaningful economic sanctions thus far against Libya, and then they decried the military action that the United States was forced to resort to. I say "forced to resort to" because I think the time had come when the President had to take some kind of action. Not to have done so, I think, would have undermined the President's credibility.

I must say, however, that I think there was entirely too much talk, and there is still too much talk by our own leaders about the use of military force. I think it becomes a kind of self-fulfilling prophecy. It would seem to me that, if indications are that military actions should be taken, it might be best and in the interests of minimizing our own losses, if we did not telegraph ahead of time what we intend to do.

Mr. Qadhafi had ample time to make some preparations against the strike even though he did not know precisely when it would occur or precisely how it would unfold. Yet, I think that we came perhaps dangerously close to making it possible for Mr. Qadhafi to take actions not only to reduce his losses but also that would put American lives in particular jeopardy.

In the future, I hope that we can cool a little of the bellicose rhetoric, and do what we have to do—do it and talk about it afterward.

The events of last week may have angered some in Europe but I am hopeful that America's reactions to Libyan terror will inspire some serious rethinking of options in allied capitals.

If our policy is to be effective, we need the support of our allies in isolating Libya.

I hope and trust that the President and the other Tokyo summit participants will reopen the question of how such a policy can best succeed.

Mr. President, I have some suggestions for joint action.

Libya—or any nation which serves as a breeding ground for terrorists—must be convinced that such support has a price in the international community. Thus far, nations that become international outlaws are secure in the belief that Europe and America will not react with joint economic sanctions. In 1978, participants at the Bonn economic summit declared their opposition to terrorism and committed themselves to cooperation, including the cessation of civilian airline traffic to countries where terrorists are given refuge. That declaration was aimed at countries that refuse extradition of hijackers. Why not move at the Tokyo summit to extend this response to nations which sponsor terrorism? If every European airline refused to fly to Libya and Libyan aircraft were denied landing rights in Europe, it would significantly hobble Libyan commerce, and may make the passage of terrorists more difficult.

The same course could be followed in telecommunications and postal cooperation. If Western Europeans refused to transmit telephone messages or handle mail from Libya, the Qadhafi regime would face a significant new isolation, and perhaps an additional barrier in its efforts to coordinate its network of terror. Libya's telecommunications are tied to those of Italy. Is a Libyan missile attack on an Italian island enough to provoke interest in a cutoff of telecommunications privileges?

Beyond these initial steps, the United States should renew efforts to achieve meaningful economic sanctions. We should assure that Europeans hold to their commitment not to "fill in" behind American firms that have left Libya. But beyond that, we need to convince our allies that joint action is not only possible, but necessary. We should work to halt Libyan benefit from its European connections and from the trappings of legitimacy which they confer.

I am not blind to the real economic costs to Europe of a total boycott of Libya. But the economic relationship cannot take place in a moral and political vacuum. Moreover, it must be weighed against the cost of decreased American tourism, increased costs to Europeans in antiterrorism measures, and the incalculable price in human life and suffering—and the quality of life in Europe—that terrorism exacts. Oil remains cheaper now than in the past, so the time is ripe for Europeans to look elsewhere to replace Libyan oil.

If we hope to win against terrorism, we must be prepared to keep up the pressure. Showing resolve is important, but maintaining it even more so. The President has cautioned that there is no quick fix in our war against terrorism, and he is right. We must be prepared to build a convincing policy, and push those who share our values—and benefit from our protection—to join in making it work.

I have written to U.N. Ambassador Vernon Walters to ask that he review Libyan participation in the United Nations and other international organizations to examine the benefits that country receives with a view to action to isolate Libya and deny it those benefits, so long as the Libyan leadership engages in policies that support international terrorism. Libya should be denied the benefits of the international regimes which regulate or establish procedures for airline traffic, post and telecommunications cooperation, health, agriculture, and the concerns of civilized countries. I hope that our Government will work with likeminded nations to achieve that end.

## RUSSELL LONG CONSIDERED

Mr. BYRD. Mr. President, for almost 38 years, Senator RUSSELL LONG has represented Louisiana in the U.S. Senate. To the regret of his many friends and admirers here on Capitol Hill and across the country, Senator LONG has announced that he will not seek reelection to the Senate for another term. His retirement will be a loss to the Senate and to America.

Senator LONG's contributions to the Senate throughout his tenure have been many. His greatest contributions, of course, have been in the Senate Finance Committee, of which he was chairman for 15 years, and of which he continues as the respected ranking minority member. As a result of his expertise and skill on the Finance Committee, tribute has often been paid Senator LONG, on both sides of the aisle in this Chamber, and by a wide array of economists and tax authorities as being perhaps the single most knowledgeable man in the country on the subject of taxes.

A recent issue of Congressional Quarterly carried an insightful article on the distinguished senior Senator from Louisiana, entitled, "Russell Long: Tax Master and Senate Mentor." I ask unanimous consent that that article on Senator LONG be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Congressional Quarterly, Apr. 12, 1986]

RUSSELL LONG: TAX MASTER AND SENATE MENTOR

(By Pamela Fessler)

Over the past few years, no one fought harder than Russell Long to prevent television coverage of the U.S. Senate. But on Feb. 27, members finally agreed to let the cameras in for a test run that is likely to turn permanent.

The vote heralded one more transformation in the way the Senate does business, one more change in an institution that is becoming barely recognizable to veterans like the 67-year-old Louisiana Democrat, who was first elected in 1948.

Russell B. Long is infinitely more comfortable whispering into a colleague's ear than speaking before TV cameras. He has seldom felt the need to talk to more than one person at a time, and during his lengthy Senate career, he has exerted extraordinary influence through those one-on-one dealings.

Long plans to retire at the end of this year. He will have served longer than all but three past and present members of the Senate, and many of his colleagues lament that when he leaves he will take a unique part of the institution and its history with him.

"We're going to lose a big, big reservoir of knowledge," said Majority Leader Robert Dole, R-Kan. "A lot of people walk over to Russell just to get advice. . . . He knows how this place works as well as anyone."

"I guess what makes me sad is that I don't think there's anyone who's ever going to replace Russell Long," said David L. Boren, D-Okla. "He has the kind of institutional memory and perspective that's in very short supply around here."

Long's influence stems from far more than mere longevity. Like the layers of bark on a tree, it has grown slowly and intricately over time he has built up a virtually inexahaustible store of good will through personal and legislative favors, and a loyalty to the Senate and his colleageus that few can visal.

More often than not, this good will translated into favorable votes on issues crucial to Long.

HIS MONUMENT: THE TAX CODE

What Long has cared about most is the Internal Revenue Code. A member of the Finance Committee since 1953, he was its chairman from 1965 until Republicans took control of the Senate in 1981.

Some have criticized Long for favoring big business in general, and Louisiana's oil and gas industry in particular. But even his critics conceded that no one in Congress today can match his mastery of the tax code.

For better or worse, Long probably has done more to shape the current tax system than any other past or present member of Congress, with the possible exception of former House Ways and Means Committee Chairman Wilbur D. Mills, D-Ark. (1939-77).

And as the Finance Committee labors this month to "reform" the tax system, the hand of Russell Long will be ever present. In fact, he already has made his mark on the measure likely to emerge from committee.

Even before the panel cast its first vote, Chairman Bob Packwood, R-Ore., produced a working draft that left unscathed just about every tax break Long really cares about. It contained no restrictions on tax advantages enjoyed by the oil and gas industries—Louisiana's economic mainstay—and it retained generous incentives for business investment. Two pet tax code provisions authored by Long, to encourage employee stock ownership plans and individual contributions for presidential campaigns, also remained untouched.

Packwood, well aware that he needs Democratic support to get the controversial bill out of committee and through the Senate, makes no bones about indulging his predecessor.

"I cannot think of anybody I've learned as much from as Long," he said. "There's almost nothing I wouldn't do for him."

LONG AS MENTOR

Packwood is not the only senator who feels that way. If Long is best known outside the Senate for his influence over the tax code, he seems to be most appreciated within it for his role as mentor.

He has earned not only the respect but the affection of his colleagues, often in seemingly little ways that have had a lasting impact in an institution where relationships increasingly tend to be superficial.

One of his aides recalled several occasions when senators came to Long asking for advice on how to vote on a particular issue. Long told them he planned to vote one way, but suggested they might be well advised politically to vote the other way.

"He looked at long-term relations," said the aide. And in the long run, that policy paid off.

Packwood, for example, recalls that when he joined the Finance Committee in 1973 as its most junior minority member, he wanted to draft a major health insurance bill.

The committee had only a small staff, which had to be shared by members of both parties. But Long told two staffers to give Packwood as much time as he needed, even though the legislation had no chance of enactment, and in fact was never adopted.

"They must have spent 50 hours apiece with me," recalls Packwood, adding it was favor he will never forget.

And then there is Spark M. Matsunaga, D-Hawaii. A senior member of Finance, Matsunaga almost always support Long in committee, on the floor and in conference with the House.

The reason is simple. Without Long, Matsunaga says, he might not be in the U.S. Senate.

Matsunaga recalls that his first contact with the Louisiana legislator was in 1950, when he came as a Harvard law student to the senator's office to lobby for Hawaiian statehood. At the time, the movement was blocked by a group of Southern members. Matsunaga says that after he made his pitch, Long put an arm around him and said:

" 'Young man [Matsunaga notes that he is a year older than Long], you must remember that a U.S. senator is primarily interested in two things—one, to be elected, and the other, to be re-elected. Go to my constituents. If my constituents tell me I can support Hawaiian statehood, I will.' "

Matsunaga followed Long's advice and found they had a mutual business friend in Louisiana. The two convinced Long he should visit Hawaii and see for himself if the islands were ready for statehood.

Upon his return, Long broke with other Southern senators to argue in favor of statehood for Hawaii, which finally was granted in 1959.

Hawaii might have become the 50th state anyway, but for Matsuaga, Long made the difference. "I, for one, feel indebter to him, and I have always looked to him, well, as a patron," he said.

Boren is another unabashed admirer. He first met Long as a child, when his father, Lyle H. Boren, D-Okla., was in the House (1937-47).

When the younger Boren was elected to the Senate in 1978, Long took him under his wing. He pushed for expansion of the Finance Committee's membership so that Boren could be given a seat.

"He's certainly the closest thing I have to a mentor in the Senate," says the Oklahoma Democrat.

Boren notes that fo the help Long has given him over the years, the older senator has never once asked for a favor in return.

"But what matters is that I want to help him," Boren said. "He doesn't call his chits in because he doesn't have to. He's just so good to people, they don't forget what he's done."

BANKROLLING FAVORS

During the 15 years he chaired the Finance Committee, Long was in a position to do quite a lot for his fellow senators. Year after year, he doled out goodies, not only in tax bills but also in spending programs. Finance has jurisdiction over Social Security, trade, health, welfare and several other social programs—about half of all government spending.

In one of the last big tax bills managed by Long—the Windfall Profit Tax Act of 1980 (PL 96-223)—committee members had a host of special provisions added for their constituents, ranging from a tax exemption for Alaskan oil requested by Mike Gravel, D-Alaska (1969-81), to a credit for woodburning stoves sought by John H. Chafee, R-R.I.

Not the least of the provisions adopted were those protecting Louisiana's oil interests—a limited windfall tax for newly discovered oil and preferential treatment for independent oil producers.

Long's strategy as chairman was to help all of his colleagues as much as possible, so he could win broad, bipartisan support for his bill in committee and on the floor. Even if their pet provisions ultimately were dropped in conference with the House, senators could boast that their amendments were adopted for a while.

"As chairman, Long tried to accommodate everyone's interests as much as he could," said Gene E. Godley, assistant secretary of the Treasury for legislative affairs during the Carter administration and now a tax lobbyist. "He protected the members of his committee, then he let the votes fall where they would. As a result, if you had a free vote, you tended to vote with him."

Former Sen. Walter F. Mondale, D-Minn. (1964-76), who served on the Finance Committee under Long, admitted once that he did not fight the chairman on tax issues dear to other liberals so he could get his way on social programs he cared most about.

"I have to live in the real world, and I don't want to get isolated on the committee as a lone squeaking mouse," he told a reporter.

CAMPAIGN CLOUT

Long also has been good to Democratic colleagues who sought his help in raising money for their re-election campaigns.

He has held numerous fund-raisers for incumbents, and he has taken the potentially more important step of introducing colleagues to those in the business community whose tax problems he has helped alleviate.

Last November, for example, Long held a weekend fund-raiser in New Orleans for five Democratic senators—Alan J. Dixon, Ill.; Christopher J. Dodd, Conn.; John Glenn, Ohio; Wendell H. Ford, Ky.; and Ernest F. Hollings, S.C. He raised $100,000 for their 1986 campaigns from local contributors and Washington lobbyists.

In 1983, Long raised $1 million in one night for the democratic Senatorial Campaign Committee with a $1,000-a-plate "tribute to Russell Long" dinner in Washington.

"Even those who have philosophical differences of opinion and those who view him as too conservative or have different regional outlooks, they still have to remember that Russell Long time and time again went to bat for them and raised money for them," says Boren.

One former Democratic senator recalls that he was often at odds with Long on tax issues. "But when it was my time to run for re-election, he'd get people who would have liked to slit my throat to give me contributions."

MASTERY AND MYSTIQUE

Part of Long's mystique stems from a combination of charm and inscrutability. Son of the "Kingfish," the fiery Huey P. Long, who served as governor of Louisiana from 1928-32 and senator from 1932-35, Russell Long has a deceptively folksy, chummy manner.

He can regale colleagues for hours with "down-home" stories, then sidle up to someone for a more cozy chat.

"I'll tell you the way he wins your vote," said Matsunaga. "He comes right up and whispers in your ear as if it's just between you and him, and makes you feel that what he's saying is something special and is only for you and your ears."

But colleagues say that behind the humor and the endearing manner is a keen, calculating mind. And Long rarely reveals to anyone what he has on that mind.

Bill Bradley, D-N.J., considers Long "the best legislator in the Senate," even though Bradley's tax philosophy is the antithesis of Long's.

Bradley recounts that in 1979, the year he came to the Senate, he was presiding over floor debate on the windfall-profits tax bill. Long offered an amendment that obviously had little chance of adoption.

"I remember wondering why he was doing it, and why he was not debating it very enthusiastically," says Bradley, adding that the amendment lost by an overwhelming vote.

He said it later dawned on him that Long was trying to discover "his base support, to find out his baseline. It was not to win.

"He understands the different levels of the legislative process, where to make your effort, how to ascertain your strengths, better than anyone. But because he's so creative, it's not easy for the uninitiated to follow what he's doing," he said.

Both Bradley and Boren recall an occasion when Long was chairman of the Finance Committee and the committee was expected to vote on a controversial amendment.

"Russell was presiding and he just kept getting off the subject," said Boren. "He told some of his wonderful Uncle Earl stories, and he just kept rambling about things that had nothing to do with the agenda. [Earl K. Long served as governor of Louisiana from 1939-40, 1948-52 and 1956-60.]

"One by one, members decided they would go off and do something else. It looked like the committee wasn't going to do anything."

But all of a sudden, after four or five members had left, Long banged down the gavel and said, "Well, let's get down to business and vote." The roll was called and Long's side carried.

"He knew exactly who had walked out of the room and which side of the issue they were on, and he knew exactly when to call for the vote," said Boren.

FEW GRUDGES

Perhaps surprisingly, few on the losing side of Long's "creative" legislative techniques hold their defeats against him. Members say he is true to his word, sincere in his beliefs and holds no grudges, qualities highly valued among Senate colleagues.

"He fights his legislative battles hard, but there's never any sense of personal animosity," says John C. Danforth, R-Mo. "I have never seen anything that approaches meanspiritedness."

Danforth had his first run-in with Long on the windfall-profits tax bill in 1979, when he made an unsuccessful proposal to tax state oil royalties. He fought vehemently, despite Long's opposition. "I kept pushing it," Danforth said. "Of course, it was going nowhere—I mean *nowhere*."

During one closed-door meeting, Danforth recalls, he refused any compromise on his amendment. "At the end of the meeting, Russell came up to me and put his arm on my shoulder and said, kind of chortling, 'You know, sometime, maybe in about 15 years, I think you're going to be a really great senator. As for now, I think you're about the most obnoxious person I've ever seen in the Senate.'"

At the time, says Danforth, he didn't know if that was an insult or a compliment. But he says that he gained from that fight, and from other experiences with Long, some useful lessons about being a senator:

"I've learned that in a body of 100 diverse individuals, you don't accomplish much by just trying to bowl everybody over; that government is a process, and that it is very seldom at the end of any day that you can say, 'Ah, we have finally accomplished this objective.'"

Long has often likened passing a piece of legislation to cooking a stew, something that requires time and patience before all the ingredients come together in the proper mix.

"He's, by example, taught many of us to be patient and let people have their say and try to work something out," said Dole.

NOT EVERYONE ENCHANTED

For all the respect he commands, Long has his critics.

While it is difficult to find anyone now serving in the Senate who speaks ill of him, one former member, who asked not to be named, says Long could get slick at times.

This individual recalls that during one tax debate in the mid 1970s, the only senator with a copy of the bill was Russell Long.

"He was at a great advantage," this source said. "If you didn't know something was in the bill, or the staff didn't know, it just slipped by."

Tax provisions just "slipping by" under Long is one big reason there is a need today to rewrite federal tax law, according to proponents of "reform."

"Long was at the forefront of developments in the late '70s, when inflation pushed taxpayers into higher brackets and Congress used the money to give out special tax breaks," said Robert S. McIntyre, director of federal tax policy for Citizens for Tax Justice, a labor-backed research and lobby group.

"It's fair to say that Russell Long as much as anyone undercut the Democratic Party and set the stage for Ronald Reagan," he added, noting that middle-class Americans eventually realized that their taxes had soared while loopholes for the wealthy and for corporations mulitplied.

Some in Congress, and many outside it, still harbor resentment at Long's resistance earlier in this decade to legislation aimed at stopping the Reagan administration from throwing thousands of people off the Social Security disability rolls.

From 1982-84, Louisiana Democrat almost single-handely blocked the bill, arguing that the program was plagued by deadbeats.

Only when the House passed the legislation 410-1 did Long ease his opposition and begin to work out a compromise.

But to the end, his critics say, he seemed almost oblivious to overwhelming evidence that many genuinely disabled citizens were being strippled of their benefits and left in desperate financial straits. Long, they say, seemed unable to look beyond decade-old stories of program abuses.

INFLUENCE WANING?

Some say that Long's influence has waned since he lost his chairmanship in 1981 and has had less legislative currency with which to deal.

"He's the odd man out on the committee," said one Democratic senator. "I think a lot of the influence has passed on to [Lloyd] Bentsen [D-Texas], Boren, [George J.] Mitchell [D-Maine] and Bradley. They're all independent thinkers."

A Democratic tax staffer agrees that Long has provided little leadership for the panel's nine Democrats: "He really hasn't tried to shape the Democrats into a cohesive minority," the aide said.

But while Long has kept a relatively low profile, when he has felt strongly about an issue, his clout has been unmistakable.

One of the first signs that Long had not retired came in 1983. The year before, the Finance Committee put together a tax bill designed to raise $99 billion over three years to help reduce the federal deficit.

Since it was an election year, few members were eager to work on the legislation, and Dole—who was then chairman—decided the only way he could get a bill through the committee was to have GOP members craft one behind closed doors.

They did so, and after just 17 hours of committee deliberation, the measure was approved by a straight party-line vote of 11-9.

Democrats charged that they had been shut out, and they noted that when Long was chairman, members of both parties always had a say about tax changes.

The bill narrowly passed the Senate and was enacted (PL 97-248), but Dole paid dearly the following year.

One of the provisions in the 1982 law called for the withholding of taxes from interest and dividend income. That met with a storm of protest from banks and other financial institutions around the country. Over the opposition of Dole and the Reagan administration, they mounted a drive to repeal the law with one of the biggest, most intense lobbying campaigns in congressional history. One of their key allies turned out to be Long.

While the fight for repeal was led in the Senate by freshman Bob Kasten, R-Wis., Long helped direct the show, offering parliamentary advice and sitting on the Senate floor through much of the debate.

Long also encouraged the bankers. "My advice was that if they continued to fight, they'd eventually be winners," he said in a recent interview.

He was right. The withholding provision was repealed by overwhelming margins in both chambers.

Long denies he was trying to get back at Dole for the 1982 tax bill markup. He says that he opposed withholding because it was unpopular and had been enacted in such a rush "the opposition never had a chance to organize. . . . I know how that's done; I've been involved in things like that in my life.

"I consider Bob Dole a very good friend," he said, adding with a smile, "but that doesn't mean that just in terms of friendly competition that we can't have a difference of opinion and go to the mat on something once in a while just to see where we stand."

In 1984, when the committee had to put together a deficit-reduction bill, "Dole could not have been nicer to Long," said a former committee aide. The bill was reported unanimously from committee after a month of debate and passed the Senate floor by a vote of 76-5.

RETIREMENT PLANS

As Long prepares to leave the Senate, he says he wants to "see what else life holds." He notes that when he retires, he will have served longer than all but John C., Stennis, D-Miss., who was first elected in 1947, a year before Long; and former Sens. Carl Hayden, D-Ariz. (1927-69), and Richard Russell, D-Ga. (1933-71).

"That's an awfully long time to serve," Long said.

He recalls that a number of his colleagues and other politicians he has known, including his father and uncle, "went out in a casket. . . . So I thought it would be good to walk out of here in good health."

Long will not say what he plans to do next, but there is growing talk in Louisiana about trying to draft him to run for governor in 1987, to replace Democrat Edwin W. Edwards, who faces retrial on racketeering charges.

Recent polls show that Long could win with a substantial majority, and the senator says he might consider running if he thought he could help his troubled state. Currently, Louisiana has the nation's second-highest unemployment rate, largely because hard times have hit its oil and timber industries.

"The people may need me and if they do, I'd be willing to consider it on that basis, because at this point in life I don't really need that job," he says.

"Understand," he adds with a laugh, "in the event I run, that's not the way I'm going to make my pitch."

But many colleagues find it hard to believe that Long would quit the U.S. Senate to take on the grueling job of governor. They note that Long enjoys his relaxation. He and his second wife, Carolyn, have a mountaintop home in Front Royal, Va., where they like to rest, secluded from the hustle and bustle of politics.

Based on his own conversations with Long, Boren believes the senator has decided to retire in part because he does not "like the kind of campaigns you have to run any more, where you have to sell yourself like a bar of soap, instead of really discussing the substance of government."

In fact, Long had his toughest campaign in his last election in 1980. After winning with 100 percent of the vote in 1974 and 1968, he received only 58 percent amid complaints he had lost touch with the state.

Boren also feels Long is "troubled by what the Senate has become. I don't think he likes to see one-issue people who don't really know how to operate for the good of the country or who don't understand the history of the institution."

He and others note that the Senate has become increasingly partisan and fragmented.

"It seems to me," said Boren, "that the greatest need is for consensus-builders who can overcome this fragmentation . . . all the qualities that Russell Long has. He's been a consensus-builder, the kind of person who can put together bipartisan coalitions. I'm worried about the void I think he will leave."

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THE LONG VIEW ON TAX "REFORM"

During almost 38 years in the Senate, Russell B. Long has seen a lot of tax legislation come and go.

"Russell's heard so many things labeled 'reform' that that word doesn't impress him much any more," said Lloyd Bentsen, D-Texas, one of the Louisiana Democrat's colleagues on the Senate Finance Committee.

What impressed Long even less is the underlying premise of the tax-overhaul drive now under way on Capitol Hill. That effort, precipitated by President Reagan, is grounded in a conviction that tax rates should be as low as possible and that tax law should not be used to distort the economy by encouraging one activity over another.

But Long argues that the tax system is a tool of government just like spending and should be used as such.

He says that any bill the Finance Committee reports should remove the poorest taxpayers from the rolls and ensure that the very wealthy "pay a reasonable amount of taxes."

"Those two things are necessary to be there. But the rest of it, we should be careful that we're not doing more harm to the economy than we're doing good," Long said in an interview.

The veteran senator has something close to disdain for "tax purists" who think the tax code can be made simple and can treat everyone equally across the board. He notes that Congress has tried to "reform" the federal tax system several times before, but members always have found reasons to keep some special tax incentives.

"Private industry has 50,000 lawyers out there trying to reduce taxes for their clients, while we're trying to find ways to offset the ways they're trying to avoid taxes. So we'll be confronted with inequities no matter what we do," he said.

This year, as in the past, one person's inequity is another's just desserts. Every lobbyist is crying some version of the most famous line ever attributed to Russell Long: "Don't tax you, don't tax me—tax the fellow behind that tree!"

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## VOTING RECORD OF SENATOR PROXMIRE

Mr. BYRD. Mr. President, 9 years ago, on May 2, 1977, I rose in this Chamber to announce that Senator PROXMIRE had cast his 5,000th consecutive vote in the Senate. This voting record, I said then, was "sui generis—one of its kind— * * * and unmatched in the history of this body." I went on to say, "I will be looking forward to the 6,000th consecutive vote, which I am sure he fully intends to cast."

I knew that I could count on the senior Senator from Wisconsin to make my words prophetic.

It is with great pleasure that I call the attention of my colleagues to the fact that yesterday was a monumental day in the history of the U.S. Senate and the Senatorial career of our distinguished colleague, the senior Senator from Wisconsin. Yesterday, April 20, 1986, marked 20 years in which Senator PROXMIRE has not missed a rollcall vote.

During the two decades which began on April 20, 1966, there have been 9,178 votes, and Senator PROXMIRE has voted on every one—9,178 consecutive rollcall votes.

The tenacity and dedication that Senator PROXMIRE has applied to the causes in which he believes has made him somewhat of an institution within this institution. His "Golden Fleece Award" and now his "Myth of the Day" have become as much a part of this institution as quorum calls and filibusters.

His tenacity and dedication were also witnessed by his statements over a very long period of time with respect to the Genocide Treaty. On January 11, 1967, Senator PROXMIRE announced that he would speak every day that the Senate was in session urging this body to ratify the Genocide Treaty until it did. It took 19 years and over 3,000 speeches, but he did it. On the day that this quest became reality, February 19, 1986, the junior Senator from Arkansas [Mr. PRYOR] pointed out that, "Morning business will never be the same again," adding: "The treaty will forever be the legacy of the patience, passion, persistence, and persuasion of the Senator from Wisconsin."

For 8 years, he pushed and fought for the passage of the truth-in-lending bill. In 1968, this quest became reality, and he was invited to the White House for the ceremony during which President Johnson would sign the measure into law before the news photographers and television cameras. Senator PROXMIRE did not make it to that ceremony—a measure had come up to the floor and he remained in his seat to make sure he was there to vote.

Mr. President, what an outstanding feat, 20 years without missing a rollcall vote. There is no more appropriate way to conclude than to say congratulations. I congratulate Senator PROXMIRE and commend him for his service to the people of Wisconsin and the people of the United States.

Mr. President, I join my colleagues on both sides of the aisle in congratulating Senator PROXMIRE on this outstanding, unique record which I dare say will not soon be improved upon, not by anyone other than Senator PROXMIRE himself.

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## SENATOR HAWKINS' SPECIAL ORDER

Mr. COCHRAN. Mr. President, I ask unanimous consent that I may be permitted to read a statement to the Senate in behalf of Senator PAULA HAWKINS.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COCHRAN. Before I begin, let me say that the majority leader has advised me, and asked me to inform the Senate, that the distinguished Senator from Florida [Mrs. HAWKINS] underwent additional back surgery this morning and has made it through the surgical procedure well. It is hoped that this surgical procedure will help alleviate some of the distress, discomfort, and pain she has been experiencing.

The majority leader has talked with the family and wanted me to pass on to the Senate that news of Senator HAWKINS.

Mr. President, the statement of Senator HAWKINS this morning is on the subject of Inter-American Specialized Conference on Drug Trafficking.

INTER-AMERICAN SPECIALIZED CONFERENCE ON DRUG TRAFFICKING

Mrs. HAWKINS. Mr. President, each day that passes we await some tangible sign that the Mexican Government is serious about bringing to justice the murderers of DEA Special Agent Enrique Camarena. Still there is no sign. Still we wait.

Mr. President, although we are frustrated and disappointed about the unwillingness of the Mexican authorities to tackle the problems of drug trafficking, there are rays of

hope in the war on drugs. One such bright spot is the upcoming Inter-American Specialized Conference on Drug Trafficking being sponsored by the Organization of American States [OAS] in Rio de Janeiro from April 22-26, 1986.

To put this conference in perspective it is necessary to realize that the OAS has never had a conference dedicated solely to the issue of narcotics trafficking. No previous drug conferences have been held in spite of the fact that certain of its member nations are among the largest producers and consumers of illegal narcotics in the world.

Fortunately this is not the only sign of increasing international awareness of the seriousness of the illegal narcotics business, but it is one of the most recent. The United Nations has been working on a new draft convention on narcotics and a ministerial level international conference on illegal narcotics is being scheduled for next year in Vienna. There is no doubt—there is growing momentum in the war on drugs at the international level, and it's about time.

I do not favor conferences simply for the sake of having conferences. Diplomats tend to talk and talk and talk. What we need now is action. There are some positive signs that this OAS conference may start the ball rolling on a series of initiatives that will culminate in a hemispherewide antinarcotics effort.

One of those positive signs is the fact that the conference has not shied away from the politically difficult issues involved in drug trafficking. The agenda reflects a desire to examine the entire aspect of the problem—everything from demand reduction to eradication to money laundering.

Another positive sign is the fact that Brazil, one of the leaders in Latin America, expressed an interest in hosting a conference such as this.

It is too early to tell whether these hopes will be fulfilled or whether they will be dashed amid high-sounding words and deadly inaction. There are pitfalls, to be sure. I am one of the strongest advocates of a demand-oriented strategy to attack the drug problem. As I have said here on the floor before, I fully support domestic efforts in the United States to deal directly with the problem of demand for illicit drugs. And I believe that that issue is a legitimate concern for international fora. I am concerned, however, that some of the major producing or transit countries may use the issue of demand reduction as an excuse to avoid their own actions to deal with the drug trafficking problem. This would be an illegitimate and irresponsible use of the issue. It is something, should it occur, that should be loudly condemned and exposed as a fraud and an effort to avoid responsibility.

I am encouraged that such a conference as the one in Rio is taking place, but I will reserve my judgment until it is over. Conferences such as this should be judged not by their intentions, but by their results. I assure my colleagues that I will be following what goes on in Rio and will provide the Senate will a full report.

Let us hope this will mark an unprecedented effort at hemispheric cooperation on this vital issue.

## RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

Mr. PROXMIRE. I thank the Chair.

## VULNERABILITY OF SDI HARDWARE MAKES IT A TRILLION DOLLAR LOSER

Mr. PROXMIRE. Mr. President, before the Senate votes 1 additional dollar for the strategic defense initiative [SDI] or star wars, Senators should read a brief analysis prepared by the Union of Concerned Scientists. This study considers the vulnerability of the space-based hardware that would constitute the heart of star wars. Even expert supporters of star wars have admitted that this vulnerability is a serious problem that the strategic defense initiative office must solve if star wars is to work.

The newly appointed head of NASA is Mr. James Fletcher. That is the National Aeronautics and Space Administration and, of course, Mr. Fletcher is an expert in this area. Mr. Fletcher previously served as chairman of the defense technologies study team. In that capacity he stated:

> Survivability is an especially crucial issue whose resolution requires a combination of technologies and tactics that remain to be worked out.

What does this mean? In plain English, it means that one of this country's most respected experts on space technologies believes that as of now we simply do not know whether we can ever develop and deploy the star wars hardware in space that can survive against an adversary attack. There is a very strong case that we cannot. Here is why:

The irony of star wars is that virtually every technological advance for its ballistic missile defense weapons provides a breakthrough that can be applied with equal force for the offense to attack the very star wars defense for which the technology has been developed. Think of it: if both superpowers should deploy star wars systems, the systems could attach each other. Consider the many advantages for the nuclear offense against any star wars defense. First, there is the timing advantage. What does the timing advantage mean? It means the offense can select the time to attack. This is always an advantage for the offense in any kind of a military confrontation.

But in the case of SDI, the advantage is specially crucial because of a second factor. That is position. How will the space-based SDI hardware be deployed? Answer: In a regular, constant, virtually perpetual and unvarying orbit. The adversary will know at all times what position the SDI satellite or battle station will be in at any particular time. It will be sure and predictable. So how could the vulnerability be greater? The offense will know exactly where it has to deliver its attack and precisely when. And the star wars defense? The star wars defense cannot know when the attack will come or where.

It is worse. The SDI battle station will be deployed for years. Its designers must anticipate in advance what kind of attack the offense can launch against it. Whenever in the future star wars designers determine that the offense has developed the capability to penetrate or destroy the deployed battle stations, what alternative do the star wars defenders have? They have to develop, produce, and deploy improved and advanced battle stations that can defeat the offensive threat.

How practical is such a replacement? Just consider the cost. The battle stations will cost hundreds of millions of dollars each. Assume $500 million per copy. The system will require literally thousands of these stations. The initial cost could easily be a trillion dollars for production alone. The replacements would, almost certainly, cost more, far more if it is to withstand the potential offensive attack. To replace all the battle stations would take hundreds of billions of dollars more because of the cost of lifting this mammoth cargo into space and into the proper orbit in space. The cost is now $3,000 a pound to lift it into space and these would weight many many thousands of tons. And, once again the battle station would only survive until the offense developed a new capability to penetrate, spoof, or destroy it.

Here is why star wars is almost certainly a loser for the United States. The SDI proponents basically rely on the consistent technological advantage the United States has enjoyed throughout the nuclear age over the Soviet Union in military weapons. Let us make the optimistic assumption that our country could be sure that we could continue to maintain that superiority in our star wars capability.

Will that be enough for SDI hardware survival in space? No. Why not? Because the Soviets could use the established SDI technology, the very weapons star wars is perfecting to destroy it. The Soviets could pick the time to attack. They could select the position to attack. The U.S.S.R. could destroy our star wars system even though the Soviets had a technologically inferior capability. They could destroy it at far less cost than the cost to the United States of building it.

We should ask ourselves over and over again: What is the formula that has kept the superpower nuclear peace for the full 40 years of the nuclear age? The answer: A credible nuclear deterrent. What does that mean? That means our offensive nuclear deterrent can survive any conceivable preemptive attack by the Soviet Union with far more nuclear capability than nec-

essary to destroy the Soviet Union utterly.

What is the basis for that survivability? Answer: The fact that half of our mammoth deterrent is deployed in a mobile and invisible mode. It is deployed in submarines that move under the ocean, swiftly and quietly. Another 25 percent of the American deterrent is deployed in bombers that move with close to the speed of sound throughout the world's vast air envelope. We can and should deploy the remaining 25 percent of our nuclear deterrent in land-based mobile—and I stress mobile, not stationary—missile launchers.

What additional survivability would star wars, this trillion dollar floating duck, bring? Remember, if only 1 percent of the United States nuclear arsenal reaches Russian cities, the immediate dead would range from 35 million to 50 million people and the Soviet Union would be a radioactive graveyard. What could star wars add to that deterrent? Answer: Nothing.

Mr. President, I ask unanimous consent that the conclusion to the article to which I referred by the Union of Concerned Scientists, entitled "Satellite Vulnerability," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SATELLITE VULNERABILITY

CONCLUSIONS

1The satellite vulnerability problem has been widely recognized by SDI proponents and critics alike as fundamental to space-based BMD prospects. Indeed, such a stalwart SDI enthusiast as Edward Teller has repeatedly debunked space-based weapons as unworthy of serious consideration. James Fletcher, speaking for the Defense Technologies Study Team he chaired, has stated: "Survivability is an especially crucial issue whose resolution requires a combination of technologies and tactics that remain to be worked out." A workshop of technical experts, some of whom are pro-SDI, concluded that chemical IR lasers are vulnerable to direct attack by a number of means at highly favorable cost-exchange ratios. We believe that these factors make such laser battle stations in space completely impractical. General Abrahamson has also acknowledged that survivability is a key issue.[18]

Such cautionary statements from SDI supporters are worth noting because they indicate the tip of a very deep vulnerability iceberg. For every survivability action undertaken, there is an equal and opposite reaction available to the offense, usually one that is cheaper. Each layer of countermeasure upon countermeasure merely complicates the task of boost-phase, and midcourse, defense. It is important to note, too, that with every advance in BMD weapons techniques, the countermeasures are bound to improve apace, because those techniques can also be developed as anti-BMD ASAT's.[19] The BMD systems themselves, once deployed bilaterally, can attack each other as well.

In the face of these vulnerabilities—and when coupled with the enormous array of other countermeasures—the hope for high standards of BMD performance diminish to the point of vanishing. The prospects for boost-phase defense degrade quickly in the face of devastating attacks on the space-based assets of even a sophisticated BMD. It is important to note, too, that an early result of the SDI be increased vulnerability of existing U.S. warning, communication, and intelligence satellites.

As this paper has shown, moreover, the advantages of the offense are intrinsic. Technological advances in BMD and survivability are bound to be—at best—transitory, and the current ledger indicates that countermeasures are the more mature. Technological superiority, moreover, is not in itself sufficient to protect BMD satellites, given the offense's advantages in timing, position, singularity of mission, relative imperviousness of components to attack, and other factors. An additional, little-discussed factor is that defense satellites will be orbiting for years; thus, all the possible countermeasures available to the offense must be anticipated well in advance, at the time the BMD system is deployed, with the only alternative being replacement of BMD space assets at enormous cost, especially for those in high orbits.

These inherent advantages will tend to mitigate technical superiority, however lasting, and confer upon the offense the ability to defeat a boost-phase layer, which, given our understanding of ballistic missile defense, would be decisive in defeating an entire multilayered system.

Satellite vulnerability, therefore, is one of several intrinsic problems of space-based ballistic missile defense that render it an imprudent option for the United States and Western military security.

[18] Fletcher: Statement before the Subcommittee on Research and Development, Committee on Armed Services, House of Representatives, 98th Congress, 2nd session, March 1, 1984 (typescript), p. 3. The comment reflects the conclusions of the DTST report of October 1983. Workshop: Drell, op. cit., p. 12. Abrahamson: Speech, Conference on World Affairs, University of Colorado, April 8, 1985. Another revealing statement of Gen. Abrahamson: "if there is an easy way of spoofing, destroying, or reducing the effectiveness of the system, you would have a real problem." Air Force Magazine (September 1984). See also Defense/84, p. 8.

[19] A. Carter makes the point well in his OTA paper: "Vulnerability of these [BMD] satellites is a cardinal concern because their orbits are completely predictable (they are in effect fixed targets), they are impractical to harden, conceal, or proliferate to any significant degree, and because successful development of effective directed-energy BMD weapons virtually presupposes development of potent anti-satellite (ASAT) weapons." Directed Energy Missile Defense (Washington, DC: Office of Technology Assessment, 1984), p. 46.

## MYTH OF THE DAY: MISSIONARIES WORK WILL BE AFFECTED BY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the myth of the day is that Senate ratification of the Genocide Convention affects in any way the work of religious missionaries.

The opponents of the Genocide Convention have left no stone unturned in their efforts to misrepresent the Genocide Convention. But one of their sorriest steps was to mislead many religious Americans into believing that the work of missionaries in proselytizing for their faith might be construed as genocide because one religious group was somehow being eliminated.

Such a misrepresentation is nothing short of grotesque and shameful. The fact that even today I hear from individuals on this topic is a sad commentary on how far they went to spread this nonsense.

The simple fact is that this treaty is dedicated completely and exclusively to physical genocide: the attempt to exterminate a group by killing them, preventing them from reproducing or turning them into barely living vegetable through mental torture or forcible application of drugs. None of these heinous crimes has anything to do with the work of missionaries.

And it cannot be twisted around, by anyone, to affect the work of missionaries.

How can I be so sure? The reason is that one of the earliest drafts of the Genocide Convention embodied two concepts: physical genocide, which I have just outlined, and cultural genocide. Cultural genocide is characterized by efforts to forcibly eliminate a group's identity by refusing to permit them to speak or write their native language, observe their own customs, traditions and folkways or forbid them to practice their own religion, such as the Soviets have repeatedly done to Ukranian Catholics or some Soviet Jews.

If properly drafted, the concept of cultural genocide would not affect the work of missionaries either; their work does not involve coercion but persuasion. But the delegates drafting the Genocide Convention were concerned that the concept of cultural genocide had not been thoroughly thought out and each and every line relating to cultural genocide was struck from this treaty early in the drafting process.

Thus, the treaty only relates to the attempt to physically annihilate a group and missionaries of all faiths have nothing to fear from such an affirmation of the right of all peoples to live free of fear of annihilation.

Mr. President, I yield the floor.

## ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with statements therein limited to 5 minutes each.

## RHODE ISLAND: THE UNITED STATES' HIGH SCHOOL HOCKEY KING

Mr. CHAFEE. Mr. President, Rhode Island may be the smallest State in

the Union, but it will take a back seat to no other State in the caliber of play and achievements of its schoolboy athletic teams. I rise today to pay tribute to the remarkable accomplishments of one such team, the Mount St. Charles Academy hockey team.

Founded by the Brothers of the Sacred Heart and located in the city of Woonsocket, Mount St. Charles recently won its ninth straight State hockey championship. This represents the longest run of championships in Rhode Island sports history and is believed by knowledgeable sports writers to be one of the longest of any sport in the Nation.

As impressive as this streak is, Mr. President, it doesn't tell half the story, because Mount St. Charles is the preeminent national hockey powerhouse as well. In fact, according to the National Sports News Service, the organization responsible for determining the national high school hockey champ, Mount St. Charles has been the best in the country for the last 6 years.

No other school in the United States has been named No. 1 nationally for even 2 consecutive years. Clearly, this record speaks for itself.

Mr. President, by dispatching archrival Bishop Hendricken High School in the State hockey finals this year, two games to one, the Mounties capped a 27-2 season, numbers that have become routine under the guidance of Coach Bill Belisle. Since taking the reins of the Mount hockey program in 1975, Bill has perpetuated a dynasty and forged records which will very likely never be broken. Coach Belisle's overall mark in his 11 years behind the bench is an astounding 327-19-5, including a string of 94 consecutive Metropolitan "A" victories from 1978 to 1982.

Mount's redoubtable record over the years has not come against powderpuff opponents either, Mr. President, a claim amply supported by the ratings. Both its losses this year came at the sticks of Bishop Hendricken, a top 10 team nationally and a State sports power in its own right.

Moreover, last year Rhode Island placed 3 teams in the top 10 high school programs in the country, and a fourth squad was rated 11th. Mount St. Charles was in its customary niche at No. 1; Hendricken was 5th; LaSalle Academy, 9th; and Cranston East High School, 11th.

Although the News Service's ratings have not yet been released for this hockey season, Rhode Islanders have every reason to believe that the Mounties will once again be crowned the national champion.

Mr. President, none of Mount St. Charles' hockey success would have been conceiveable, let alone possible, were it not for the efforts of Brother Adelard Beaudet, the founder of the program and the man for whom the academy's arena is named.

Born in Canada, Brother Adelard came to Sacred Heart Academy in Central Falls, RI, in 1911. Theretofore, the State had no interscholastic hockey program of which to speak. Assigned to Mount St. Charles some years later, Brother Adelard took on the challenge of building such a program, and thus became the principal architect of one of the best State interscholastic leagues in the country.

Now 102 years old, Brother Adelard may very well be the senior-most leader of any Christian denomination in the world. Yet, as the following anecdote illustrates, he remains spry as ever.

A press luncheon was held at the outset of the Providence Journal-Bulletin Hockey Invitational, at Brown University last year. At the luncheon, Brother Adelard, who was to drop the ceremonial first puck, discussed the upcoming tournament with Dick Reynolds, a retired sports writer for the Journal, generally acknowledged in his tenure there as the dean of Rhode Island sports journalists. Dick was to accompany Brother Adelard on the treacherous walk out to center ice.

"Brother," said Reynolds, "I'm getting up in years. I'm worried that once you drop the puck and the sticks start flying, I might not be quick enough to get enough out of the way."

"You're right to worry, Dick," Brother Adelard said. "I'm still fast, but they will get you."

I might add that in recognition of his lifelong contributions to Rhode Island athletics, Brother Adelard will be inducted to the Rhode Island Heritage Hall of Fame on May 18, 1986. I am sure my Senate colleagues will join me in congratulating Brother Adelard for his tremendous achievements and wishing him well for the future.

On a related sports note, Mr. President, I would also like to recognize today Burriville High School's Tom Eccleston, a State coaching legend in his own right. The oldest high school hockey coach in the Nation, Tom may be one of the best, too. In his 45 years of coaching, Tom's teams have piled up more than 500 wins. This past season—after a 10-year respite from the bench—Tom led Burriville to the State Metropolitan "B" title, an exploit which should place the Broncos in the Nation's top 20 or 30 teams.

In summary, Mr. President, I may hear differently from my colleagues in neighboring Massachusetts, and from those in Minnesota, but there's no doubt in my mind that because of such highly rated teams as Mount St. Charles, Bishop Hendricken, and Burriville; and such outstanding past and present coaches as Brother Adelard, Bill Belisle, and Tom Eccleston, Rhode Island is the Nation's high school hockey king.

Mr. President, I ask unanimous consent that a January 21, 1985, article from Sports Illustrated and a March 28, 1986, piece from USA Today, on the exploits of Mount St. Charles, be inserted into the RECORD at the conclusion of my remarks.

And I ask unanimous consent that an article written by Dick Reynolds for the Providence Journal-Bulletin Hockey Invitational be inserted as if read.

There being no objection, the ordered to be printed in the RECORD, as follows:

ON THE SCENE

(By Robert Sullivan)

Half a century apart, two very different coaches have been instrumental in making the hockey team of a New England parochial school the national high school champion. The first, a whimsical little brother of the Sacred Heart, did it in 1935. The second, a hard-bitten rink rat from just across town, has done it five time in the last five years.

The school is Mount Saint Charles Academy, situated high on a hill in Woonsocket, Rhode Island. Down the road a ways is the rink, a structure that had been an airplane hanger in World War II. When it opened for hockey in 1962, it was the first enclosed rink at any New England high school.

What has gone on recently at that rink has drawn hosannas and cries of *"Mon Dieu!"* for in the area are 16,254 citizens of French-Canadian descent. In 1975 one of that number, Bill Belisle, who had played on Mount Saint Charles's 1947 state championship team, became the coach. Belisle had been a truck driver, construction worker, player for the semi-pro Worcester Warriors and Springfield Indians and finally assistant coach at his alma mater. "When I started coaching, the team was in last place," he says. "It was fortunate for me to take it at the bottom of the heap. Goodness sakes—there was no pressure at all!"

Belisle responded well to no pressure. The Mounties were 29-8-1 in his first season, and from 1976 through '82 they won 94 straight Metropolitan A Division games en route to seven conference titles. Mount Saint Charles has been state champ since 1978 and, according to a poll by the National Sports News Service in Edina, Minn., national champion since 1980. While outscoring opponents 2,037 to 540, Belisle's teams have won 272 games, lost 18 and tied five in nine seasons. Eighteen of his players have made first-team all-state. Five have been drafted by National Hockey League teams in the past two years, including Minnesota North Star Brian Lawton, who in '83 became the first American in NHL history to be picked No. 1 in the draft.

That's the latest news—that's what everyone's talking about. But there's more, and better. Behind the discernible, provable facts of the country's best high school hockey team lies the legend. For this, one has to go way back to 1911. Brother Adelard Beaudet travels south from Quebec. He arrives in Rhode Island with a cross on his chest and a hockey stick over his shoulder. He is a missionary of dual purpose, coming to teach the children the way of the Lord and of the slap shot. Eventually he organizes the country's first interscholastic hockey league, then coaches his youthful Mount Saint Charles team to national championships. Or so the legend goes.

But as with most legends, only some of it is fact: Adelard did help form one of the nation's first youth leagues. Yes, his Mount Saint Charles teams were as good as any in the country, but they weren't as youthful as you might imagine. The truth is, Brother Adelard was importing Canadian talent to Woonsocket. Adelard will tell you so, and he's still around to do so. Last Feb. 5, his 100th birthday, was Brother Adelard Day throughout Rhode Island, and he received letters from President Reagan and Bobby Orr as well as plaques from Pope John Paul II and Jean Beliveau, patron saint of the Montreal Canadiens.

As a 10-year-old, Adelard had learned to skate on the frozen Saint Lawrence River near his home in Saint Jean Deschaillons, Quebec. In 1904, at 20, he took his vows and seven years later was sent to Sacred Heart Academy in Central Falls, R.I., to spread the Word, not start the Hockey. Nevertheless, "Right away I started it," he says. "They didn't have any sticks. We had to go to woods and get some branches and flatten them. Then we went to a pond near the city. We used rocks on the ice for goals and school books for shin pads. We played one hour without time-outs or penalties, and we had no zones."

Adelard spent 13 years shaping sticks for the boys of Sacred Heart before he was transferred to Mount Saint Charles in neighboring Woonsocket. Switching from the classroom to the front office, Adelard would serve 30 years at the school, most of them as "a treasurer without money, because of the Depression."

When he wasn't balancing the books, Adelard could be found playing hockey with the boys on a rink he'd designed. As Adelard recalls, "We started a little league with La Salle Academy of Providence and Mount Saint Charles and Classical and Central High in Providence. Then hockey took a big growth and there were teams all over."

When the competition stiffened. Adelard expanded his efforts. "So I imported some players from Canada. I had scouts up there," he says. His agents were fellow brethren in Quebec, who told skaters of the wonderful experienece a few years in the U.S. would provide. "Goodness sakes!" says Belisle admiringly. "Those players he brought in—they were pros!"

They even looked like pros:

Their uniforms resembled those worn by the Canadiens. Adelard's first heavily recruited team won the conference title and reached the state finals in 1930-31. From 1932 through '40 his teams won 160 games, tied 15 and lost only seven. In 1934-35 the Flying Frenchmen, as they were unofficially known, went undefeated in 27 games and won the New England and national titles. The Mount was again the national champ in '39. Adelard's teams were indomitable: His '35 squad had 12 straight shutouts; all the starters on his '39 team made the first-team all-state lineup. Mount Saint Charles won 10 straight conference championships.

Problem was, it was evident that the youth of Rhode Island couldn't be rolling up records like that. Three of Adelard's starting five skaters in '35 were from Canada. Even though everyone else in Woonsocket spoke with the same Quebecois lilt as the Mount's players, there was no disguising origin once they laced up their skates.

"They found out [about the imports]—the officials at other schools—and one year they said, 'You are banned from the league,'" Adelard recalls. "That's when I stopped the coaching." He adds with a hint of pride, "A lot of high school regulations pertaining to the hockey were made because of Mount Saint Charles." Those rules, effectively shutting down the Quebec-Woonsocket pipeline, signaled the end of an era.

Brother Adelard faded as a public figure on campus. He continued quietly as treasurer of the school, then in 1954 assumed the same role at Notre Dame High School in Fitchburg, Mass. On the ice of Woonsocket, hockey slid. There were a few good teams in the '40s, including that '47 state championship team, but little that was the stuff of legend.

Then, a decade ago, Bill Belisle reappeared on the scene. Five national championships have made him a larger-than-life figure, but it was something else that conferred near-mythic stature on him. "It was February 21st in 1983, the first practice right after the league playoffs and just before the states," Belisle says. "One of the younger players had borrowed skates and was getting used to them. I was yelling instructions, and from behind the kid knocked me right off my feet. I went six feet up and landed on my head. My skull was cracked open from the top down to the neck. I was pronounced dead at Woonsocket Hospital. But God gave me a second chance."

While Mount Saint Charles skated gamely to its usual championships, Belisle, 53 at the time, slowly mended in the hospital and at home. "For seven months I didn't know who I was, where I was. I was so ashamed," he says. For a person self-described as "not an easy fellow," the instruments of rehabilitation—eyeglasses, hearing aids, CAT scanners—were not easy to take. There was frustration even in life's small pleasures: "The doctor said the only thing that could cause a seizure is alcohol. Now I like a beer, goodness sakes! That night I think, 'Screw him, I'll test myself.' I had two beers, and I was all red and flushed. Unbelievable!"

Eventually Belisle came around to accepting his condition. But he refused to accept the doctors' early prognosis that he was through with coaching. "In September I came back to school. Every day I thought, 'Will I be the same Bill Belisle I was?" Goodness sakes, hockey season was two months away!"

During the first week of November that year, the coach had a private tryout. "Dr. John Guay came with me to the rink. He said, 'I know you hate helmets, but suit up with a helmet.' Now I don't want to brag, but I'm a decent skater. So I'm out there, and I skate two or three times backwards and I'm off balance. The doc says, 'That's your middle ear. Skate in a crouch.' I didn't get dizzy in a crouch." A week later Belisle, hunched over and wearing a helmet, his right leg still paralyzed from knee to ankle, skated to center ice and called his team around him. "You will get sharper day after day," he told them. "And I will get sharper day after day."

But it was difficult for him to be as confident as he tried to appear. The team had lost seven seniors, including Lawton, and Belisle himself was still having fits of forgetfulness. Yet his words were borne out. Fourteen hundred fans a game watched an amazing season unfold at Adelard Arena. A 14-2-2 record wasn't quite good enough to win another Metropolitan championship, but it proved to Belisle that his team could skate with tough schools. "In the playoffs we were the Mount of old," he says. With Adelard, just turned 100, watching from the press box, Mount Saint Charles swept La Salle and Cranston East in three games each and won the state title. In March the national rankings came out, and Mount Saint Charles had edged Matignon of Cambridge, Mass. for the No. 1 spot.

This season the team is continuing its indomitable ways. As the calendar turned, Saint Charles was 5-0 in the conference and had just won its own Christmas tournament. The playoffs start in early March, and the Mount will surely be there. It is hoped Adelard will, too. He's recovering from a hernia operation but is expected to return soon to the rink that bears his name. He'll sit contentedly in the press box, puffing on one of his beloved Dutch Masters cigars as he watches Belisle's team below.

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[From USA Today, Mar. 28, 1986]

TITLES ON THE ICE

Year-by-year records of the Mount St. Charles Academy hockey team since Bill Belisle became coach in 1975 (past players include Minnesota North Star Brian Lawton and 1984 Olympian Paul Guay, who has played for the Los Angeles Kings).

Season, Record, Finish:

1975-76, 29-8-1, state semifinalist.

1976-77, 33-4-0, state runner-up.

1977-78, 35-1-0, state New England champion.

1978-79, 30-0-0, state champion.

1979-80, 29-0-0, state N.E., national champion.

1980-81, 30-0-1, state national champion.

1981-82, 32-0-0, state national champion.

1982-83, 31-1-1, state national champion.

1983-84, 24-2-2, state national champion.

1984-85, 27-1-0, state national champion.

1985-86, 27-2-0, state——champion.

RHODE ISLAND POWER EYES ANOTHER CROWN

(By Martin Zabell)

The top high school hockey powerhouse in the USA is not located in the hotbed of Minnesota. It's in Rhode Island.

Mount St. Charles Academy won six consecutive national titles from 1980-1985, beating out Minnesota and Massachusetts teams for the honor.

In May, the Woonsocket team finds out whether its streak continues when the National Sports News Service picks its No. 1 team.

"Too bad I can't tell you they're No. 1 yet," said Art Johlfs, who determines the hockey champion. "It looks like they'll be a top candidate for the top spot this year."

Mount St. Charles won its ninth consecutive state title this season, finishing with a 27-2 record. Both losses were to state finalist Bishop Hendricken of Warwick.

A Rhode Island-Connecticut all-star team with six Mount St. Charles players won last week-end's Hockey Night tournament in Boston. Mounties Dave Capuano, a senior and the state's leading scorer this season with 41 goals and 39 assists, and Matt Schneider, a junior, were named the tournament's offensive and defensive most valuable players.

During the season, Mount St. Charles beat Massachusetts Division I champion Boston Catholic Memorial and Maine champion Lewiston St. Dominic's.

Coach Bill Belisle, 57, literally has picked himself off the ice in order to perpetuate the dynasty. His record: 327-19-5.

The team continued winning after Belisle fractured his skull in a practice accident in 1982. That year his son, Dave, the assistant coach, guided the team to a national title.

Belisle, a former semi-pro player, believes strongly in discipline and the team concept. This season, he benched leading scorer Capuano for not hustling in the first game of the best-of-three state final.

"I don't build around a star," Belisle said. "I emphasize skating."

Belisle concentrates so much on his team he doesn't bother to find out how the USA's top teams have fared. He leaves that to Johlfs.

Johlfs, a 79-year-old Minnesota native who recently moved to Arizona, said he picks the No. 1 team based on reports from teams in 17 states and the analysis of sportswriters, scouts and recruiters.

"I don't bother calling Art Johlfs," said Belisle. "I send my report in and wait to hear from him. That week's the longest week of the year."

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HOCKEY THROUGH THE HOCKEY YEARS

(Two Greats of the Game: Brother Adelard and Tom Eccleston)

There will be plenty of young celebrities on Meehan rink throughout the Providence Journal-Bulletin Hockey Invitational December 21 and 22.

There will also be plenty of older celebrities in the stands, including two of the most famous personalities in the history of Rhode Island hockey. So be sure and take a look at who is sitting next to you. Your neighbor may be Brother Adelard or Tom Eccleston unless both decide to exercise their privilege as tournament committee members and park in the press box.

Climbing to the press booth may seem too much for a man in his 102nd year. But not for Brother Adelard who does not even break his stride in mounting to the coop at the Mount Saint Charles arena bearing his name.

For Tom Eccleston, ascending to any press box is a piece of cake. The oldest high school coach in the nation scrimmages every day of his 76th year with his Burrillville bladesmen and he participates in a weekly hockey match with other elder athletes. Eccleston's chief concern is that he does not have sufficient snap in his passes because of an old injury to his right hand. So he is seriously considering an operation which most septugenarians would find entirely unessential.

When invited to be honorary chairman of the Providence Journal-Bulletin Invitational, Brother Adelard responded just as readily as he did to the challenge of building Rhode Island schoolboy hockey when he came from Canada to Sacred Heart Academy, Central Falls, 74 years ago.

Through the years, Brother Adelard has fulfilled both a spiritual and temporal mission by teaching thousands of youngsters the principles of a Christian education and hockey techniques. But in which order? When asked the question, Brother Adelard smiles as enigmatically as Mona Lisa.

On arriving from Canada in 1911, Brother Adelard was surprised to find there was no school hockey hereabouts. As a native of Canada, he had assumed everybody played hockey.

But always resourceful and a make-do marvel, he found a pond near the school, gathered the most suitably shaped tree branches for sticks, selected a few round stones for pucks and larger rocks for goal markers. He even linked athletics and academics by showing his pupils how to use their school books as shin guards.

As equipment improved and interest increased, Brother Adelard spread the gospel of hockey so successfully that his missionary efforts produced a four-team league, soon followed by an explosive expansion of ice activity.

Assigned to Mount Saint Charles just as high school hockey went indoors at the Rhode Island Auditorium, Brother Adelard added a zesty flavor to the Rhode Island skating circuit by annually importing a few crack Canadians to beef up his home forces. Although other members of the local league reluctantly accepted the invasion by their neighbors from the north, the Canadians were credited with raising the level of Rhode Island hockey by compelling local lads to extend extra efforts to meet the competition.

In the meantime, Brother Adelard's super sextets won national and New England titles, captured ten state crowns and all six positions on the 1939 All-State team until he relinquished the rink rein in order to concentrate completely on the duties as treasurer of Mount Saint Charles.

But he has always retained his keen interest in hockey. Not only does he regularly attend Mount Saint Charles matches but he still corresponds with many of his former players, even those who starred for his teams a half century ago. When asked recently about Henri Gauron, one of his celeb skaters in the 1930s, Brother Adelard immediately answered: "I had a letter from him just last week. He always says, 'I'm like you, Brother. I never got married either'."

Not long before Brother Adelard stepped down from the bench, Tom Eccleston launched his equally extraordinary career. Same as Brother Adelard, Eccleston also started from scratch.

When he introduced hockey in Burrillville in 1939, there was not even a hockey stick in town. The first year, his Burrillville team did not win a game. But thereafter the Broncos were the best on Rhode Island rinks with six straight state championships and three berths in the New England finals.

Eccleston, recognized as the most successful three-sport coach in Rhode Island annals, ran up a record of 211-77-12 as Burrillville hockey boss. Not bad for a guy who has always considered himself primarily a football coach. His grid stats certainly do not negate that claim. A glimpse at his grid record shows 11 championships, seven undefeated seasons and 26 straight victories for 149-36-11 overall. His several semipro elevens were 102-16-2 for a grand grid total of 251-52-13.

The story in baseball is the same as his high school nines captured three state titles for an unprecedented run. His baseball coaching extended to several semipro and junior championships. He once coached a Providence Journal team which featured on first base Lou Gorman, general manager of the Boston Red Sox.

Tapped by Providence College, he coached the Friars to the NCAA hockey semifinals in 1964 when he was named national hockey coach of the year.

After retiring as Burrillville superintendent, he coached Hill prep hockey for 12 seasons with a 185-54-5 slate.

Now he is resuming where he started 45 years ago as Burrillville hockey coach, a post he has accepted with one condition—no salary.

He admits being impelled by a selfish motive because he is happiest when he is coaching and that is all there is to it.

His hockey teams have won more than 500 games and yet, for him, the most memorable match was a 1-0 loss to West Haven, Conn. in the New Englands. That night, his Burrillville skaters had 52 shots on goal while West Haven had one which produced the only goal of the game in sudden death.

That amazing outcome made news across the nation and was even featured in Robert Ripley's syndicated cartoons.

The Providence Journal-Bulletin High School Hockey Invitational at Meehan Auditorium, Dec. 21 and 22, will feature not only four top schoolboy sextets but will also revive the once razor-sharp rink rivalry between Massachusetts and Rhode Island.

During the decades when the New England championships provided an exciting and colorful climax to each schoolboy season, Massachusetts and Rhode Island frequently dominated the sectional tourney, played before thousands in Boston, Lewiston and Providence.

Mere mention of the New Englands reawakens memories of Bay State skating sovereigns, such as Arlington, Malden Catholic, Melrose and Walpole locked in stirring struggles with Rhode Island rink rulers, such as Burrillville, La Salle, Cranston or Mount Saint Charles.

With the disappearance of the New Englands, Massachusetts and Rhode Island hockey forces withdrew within their respective borders and thus disappeared the keen, competitive contact between two neighboring states.

But many of the dramatic duels produced by Massachusetts-Rhode Island rivalry are still conversation pieces. Burrillville, for example, has a bittersweet recollection of the 1958 finals when the Broncos held a one-goal margin over Walpole with just 30 seconds remaining. But Walpole made the most of that half minute by tying the score and winning the New England crown in sudden death.

Babe Mousseau, who coached Burrillville to five New England titles, remains everlastingly grateful to Len Ceglarski, Walpole 1958 pilot, for removing some sting from that stunning setback. So impressed was the present Boston College coach with Burrillville superb sportsmanship throughout the tourney that the runners-up were honored guests at the Walpole banquet.

According to Art Johlfs, executive director of The National News Sports Service, Massachusetts is the No. 1 high school hockey state in the nation with more than 200 teams and 7,000 players.

Rhody rooters counter this by stressing Mount Saint Charles' remarkable record of No. 1 national ranking by the National Sports News Service for six straight years. To underline how remarkable the Mount Saint Charles record really is, Rhode Islanders add that no other school in the U.S. has been named No. 1 nationally for even two consecutive years.

For additional evidence on their behalf, Rhode Islanders note that three of their teams were among the top ten last season and fourth among the first 11 in the National Sports News Service ratings. As Mount Saint Charles retained the first rung, Bishop Hendricken was fifth, La Salle, ninth and Cranston East, 11th.

Massachusetts was also well represented in the same rankings with St. John's of Danvers only a notch below Mount Saint Charles.

Johlfs, a retired sportswriter, who now gives full-time to compiling national rankings, contends that no high school hockey is better than the New England brand. Conceding Massachusetts to be the strongest hockey state overall, he adds: "But for such

a small state, Rhode Island is surprisingly strong as Mount Saint Charles and Bishop Hendricken exemplify with their excellent programs."

Massachusetts and Rhode Island adherents have obviously long been eager for the showdown to be provided by the Providence Journal-Bulletin Invitational with Bishop Hendricken-Catholic Memorial and Mount Saint Charles-Archbishop Williams, pairings Dec. 21.

Bill Belisle, who has coached Mount Saint Charles to eight straight state championships, has not hesitated to put his national rating on the line against formidable Archbishop Williams. Belisle welcomes the interstate test and he has tried in the past to schedule Massachusetts' top teams whose chances of qualifying for the Bay State playoffs may be diminished by a loss to an out-of-state opponent.

Rhode Island teams run no such risk since only interscholastic league records determine playoff qualifers.

## CHEMICAL WEAPONS

Mr. WARNER. Mr. President, on April 10, the Committee on Armed Services' Subcommittee on Strategic and Theater Nuclear Forces conducted a hearing on the U.S. chemical deterrent program in review of the fiscal year 1987 defense authorization bill. One focus of this hearing was the relationship between the binary chemical modernization program and U.S. arms control policies and objectives.

Mr. David Emery, the Deputy Director of the U.S. Arms Control and Disarmament Agency, explained that as a result of the congressional action last year providing for the production of modern and safe binary chemical weapons, there has been a perceptible change in the Soviet attitude toward chemical arms control. While he cautioned that we are a long way away from reaching an agreement of any kind, Mr. Emery told the subcommittee that the Soviets are addressing the issue of chemical weapons arms control in a more serious manner than they have in the past. Mr. Emery warned, however, that any indication of reduced support for the binary chemical modernization program in the Congress would undermine U.S. negotiating efforts at this important juncture.

One particularly troubling aspect of this issue is the problem of chemical weapons proliferation. Today, some 15 nations are known to possess chemical weapons and others are known to be seeking these deadly weapons. In addition, the use of chemical weapons is becoming more frequent and the taboo against their use is therefore being eroded. This has been the result of the Soviet use of chemical weapons in Afghanistan, and their sponsorship of their use in Southeast Asia—both in violation of international agreements. In addition, the use of chemical weapons in the war between Iran and Iraq has contributed to a climate more accepting of the use of chemical weapons.

The United States is trying to address these problems through a two track policy of deterrence and arms control. The negotiation of a comprehensive and effectively verifiable multilateral chemical weapons ban remains our ultimate objective. Central to our two track policy is the modernization of the aging and increasingly ineffective U.S. chemical deterrent. A modern and safe retaliatory capability consisting of binary munitions will serve as a deterrent to chemical war—as was the case during World War II—and as an incentive for the Soviets to negotiate seriously.

Mr. President, at this time I would like to ask unanimous consent that an article that appeared in the Christian Science Monitor on March 19, 1986, be included in the RECORD. This article was written by Ambassador Kenneth Adelman, the Director of the U.S. Arms Control and Disarmament Agency. His article focuses on the problems of chemical weapons proliferation and use, and U.S. efforts to address these problems. I would commend this thoughtful piece to the attention of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Mar. 19, 1986]

### CHEMICAL WEAPONS: RESTORING A CLIMATE OF CONTROL

(By Kenneth L. Adelman)

Recent reports of renewed use of lethal gas by Iraq in the interminable Iran-Iraq war reinforce efforts to clamp down on the use and spread of chemical weapons. Only a decade ago the control of biological and chemical weapons represented an arms-control success story. Now, however, the once seemingly firm taboos against the use of lethal agents appear to be eroding before our eyes.

How has this come about? The problem is twofold: On the one hand, controlling the spread of chemical weaponry has proved difficult technologically; on the other hand, the dangers posed by chemical weaponry have been magnified by a gradual weakening of the international regime prohibiting their use.

Curbing proliferation is complicated by the fact that lethal chemical agents are, by comparison with nuclear armaments, cheap and easy to make. They are in danger of becoming the less developed world's weapon of mass destruction. Technologies for producing less-sophisticated agents like mustard gas are well known among chemists. And the ingredients for many chemical weapons are available in Europe and Asia, as is equipment for their manufacture.

The possession of chemical weaponry has risen from about five nations in 1963 to more than 15 today. More important has been the decline of international norms and standards conducive to stopping their proliferation.

The recent Iraqi actions are but the latest in a series of violations of chemical-weapons prohibitions, beginning in the late 1970s with Vietnam's employment of the deadly agent trichothecene mycotoxin ("yellow rain") against innocent Hmong peoples in Laos and Kampuchea. Doubts about these weapons' use are understandable until one visits Hmong refugee camps in Laos and listens to reports from the relatives of victims. In 1980 Soviet troops used yellow rain in Afghanistan.

Yellow rain incidents almost certainly contributed to an international climate more tolerant of violations.

What can we do about this growing problem?

At the Geneva summit, President Reagan and General Secretary Mikhail Gorbachev agreed to embark on a US-USSR dialogue regarding the spread and use of chemical weapons.

While the Soviets balked at including the "use" question in the joint statement itself, they understood our view that the spread and use are parts of the same problem. We hope these discussions, now under way in Geneva, will reverse the odious trend toward increased use and proliferation.

However, if these discussions—especially those in the Committee on Disarmament where the US proposes banning chemical weapons altogether—are to succeed, we must not forget the lessons of chemical-weapons control. Control of chemical weaponry depends on the combination of arms control and deterrence by the major powers. This combination prevented chemical-weapons use during World War II. While the 1925 Geneva Protocol forbade use of lethal gases, the major belligerents in World War II nonetheless possessed chemical weapons. The understanding that employment of lethal gas would provoke retaliation in kind guaranteed its prohibition. In a war hardly free from atrocities and indiscriminate violence, the taboo against chemical weapons held fast. Arms control alone could not guarantee its nonuse in the 1930s. Despite the Geneva Protocal, Mussolini's troops in Abyssinia and Japanese forces in Manchuria used lethal gases.

These lessons were neglected in the late 1970s. When the Biological and Toxin Weapons Convention was signed in 1972, there was widespread hope that biological and chemical warfare was on the road to extinction. Certainly, American policymakers proceeded on this assumption and ordered the destruction of our stocks of biological weapons. We stopped manufacturing chemical weaponry entirely in 1969 and have added no new chemical weapons to our arsenal since.

The Soviet Union, unfortunately, has done the opposite. Production of chemical weaponry has continued apace. Storage space for lethal chemical agents has steadily expanded. Secret activities on biological weapons also persisted in violation of the 1972 convention. As many American chemical stocks assigned to NATO have grown obsolete, Soviet chemical warfare capabilities have grown, with 80,000 specially trained Warsaw Pact personnel assigned to chemical warfare functions. All this has become especially disturbing given demonstrated Soviet willingness to make battlefield use of lethal gases and even to supply them for use by a client state. Vietnam.

The negotiations hold out hope that these trends might be reversed. But success on banning chemical weapons will depend on the strength of the American bargaining position. This will depend on congressional willingness to approve the administration's request for new binary chemical weapons. These weapons are not intended to match

Soviet capabilities, but they will provide a hedge against the massive and growing Soviet chemical threat to Europe as well as an incentive to the Soviet Union to bargain seriously over the comprehensive and verifiable ban we have proposed. They will strengthen our security and improve our ability to deter chemical attacks. The US will do all it can acting unilaterally, on concert with our allies, and in the coming discussions with the Soviets, to institute and enforce export controls designed to prevent the further spread, and especially the use, of these barbaric weapons.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EAST). Without objection, it is so ordered.

## AMBASSADOR JOHN ANTHONY GAVIN, U.S. AMBASSADOR TO MEXICO

Mr. PRESSLER. Mr. President, John Anthony Gavin will be leaving his post as United States Ambassador to Mexico on May 15, 1986, and I use this opportunity to honor his achievements. I also thank his fine wife, Constance Mary Towers, and his four children, Christina, Maureen, Maria, and Michael, for their support and encouragement in his role.

Mr. President, I had the great privilege to be a guest in his official residence in Mexico City, and I have had the honor of seeing this fine U.S. Ambassador in action. He speaks fluent Spanish and has, thus, been unusually effective in promoting American concerns in Mexico during a most difficult tenure.

Mr. Gavin's success in Mexico should not come as a surprise because he is uniquely qualified for his role. Ambassador Gavin was born in Los Angeles, CA, attended St. Johns Military Academy and Villanova Preparatory, and Stanford University, where he received senior honors in economics and in the history of Latin America.

Ambassador Gavin served in the Navy during the Korean conflict as an air intelligence officer, in Latin America as a flag lieutenant, and as Pan American affairs officer to the commandant of the 15th Naval District. During his Navy service he received four battle commendations, and two decorations by foreign governments.

Ambassador Gavin's public service career has been in the fields of entertainment and business. From 1961 to 1973, he was special adviser to the Secretary General of the Organization of American States. He also pursued liaison work with the U.S. Department of State while serving in the Executive Office of the President. Mr. Gavin also served as a member of the board of the Screen Actors Guild, and was its president for two terms.

After 1973, Ambassador Gavin resumed his business activities.

Ambassador Gavin was nominated for the post of the Ambassador to Mexico in March 1981, and was confirmed by the Senate in April. He is currently the longest serving U.S. Ambassador in Latin America. He is also chief of one of the largest American delegations abroad, with over 1,000 Americans and Mexican employees representing more than a dozen United States Government agencies.

I am personally regretful that such a fine Ambassador will be leaving such an important post, but I know that Ambassador Gavin has other responsibilities also. I know that many other Senators also wish him well in his new career.

## HUNGER IN SOUTH DAKOTA?

Mr. PRESSLER. Mr. President, as one who holds two Harvard graduate degrees, I have the utmost respect for the Harvard faculty. As my colleagues well know, studies conducted by Harvard scientists and researchers are among the best in the Nation. However, as a South Dakotan, I find it necessary to respond to one of Harvard's recent studies which involved South Dakotans.

Harvard's School of Public Health and the "Physician's Task Force on Hunger in America" identified 150 "hunger counties" in the United States which have a high rate of poverty but low rates of food stamp participation. My home State of South Dakota was found to have 28 of the hungriest counties in the Nation. This is quite shocking for a State which produces food for the rest of the Nation and the world.

The results of the study illustrate the severe financial problems in the farm community. The depressed farm prices and continually rising costs of production have put many farmers' and ranchers' incomes below the poverty level. Farm prices are at the lowest level in decades. This depressed farm income also translates into hard times for main street businesses. While food stamps provide greatly needed assistance for many South Dakotans, higher farm prices would help South Dakota residents much more in the long term.

I point out a few factors which apparently were not taken into consideration by the visiting researchers. One indication of nutritional deprivation in infants and children is the infant mortality rate. According to a letter I received from the South Dakota Secretary of Health, South Dakota's 1984 white infant mortality rate was the second lowest in the Nation. South Dakota has already met the Surgeon General's 1990 goal for low birthweight births and infant mortality for whites.

While the Indian population in South Dakota has a considerably higher infant mortality rate, only two of the so-called hunger counties have a significant Indian population. American Indian reservation lands were not included in the study because various commodity programs are available there. Thus, over 60 percent of our Indian population live in counties not designated as hungry.

Another health indicator is longevity. Longevity for South Dakota's men and women is above the national average. In fact, we rank 12th in the Nation. South Dakota women have one of the longest life expectancy rates in the Nation. Here in Washington, DC, life expectancy for women is 73.7, compared to South Dakota's 79.2. Men living in the Nation's Capital can expect to live only 64.6 years, compared to 72.1 in South Dakota. Agricultural accidents in South Dakota contribute to the lower expectancy for men.

South Dakotans are a hard-working and proud people. They take great pride in their livelihood and their families. In South Dakota, there is a strong sense of community. People pull together and help each other through hard times, rather than depending on Government handouts. The Food Stamp Program is a valuable Federal program that assists many South Dakotans. But, a low participation rate does not mean vast numbers of people are hungry or starving. South Dakota farmers have the capability to produce a large share of their own food needs. Large vegetable gardens are often maintained and farm animals are butchered for meat. With hard work, many farm families may enjoy a more nutritional diet than the average American, at a much lower cost to the Government. Therefore, South Dakotans should be commended for effectively using, but not abusing, the Food Stamp Program.

Mr. President, I ask unanimous consent that an editorial on this subject from the March 9, 1986, Aberdeen American News be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WE AWAIT WITH SOME TREPIDATION THE STUDY ON HUNGER

It was, indeed, something of a shock when it was announced in January that South Dakota has 28 counties where people were going hungry.

It seemed incredible then and it still does.

But a report compiled by the School of Public Health at Harvard University and the Physicians Task Force on Hunger not only listed 28 South Dakota counties on the hunger list but listed South Dakota second

in the nation, behind only Texas on that hunger list.

The report ranked counties where more than 20 percent of the people live below the federal poverty level of $10,609 a year for a family of four and where fewer than one-third of eligible residents actually get food stamps.

That must account for it, we thought, this business of food stamps. Folks in South Dakota are too proud to accept food stamps if they don't need them. Sure there may be people below the poverty level; but hunger? That's for Ethiopia. That's not Harding County (which was No. 4 in the nation). That's not Campbell County (No. 10 in the nation). There must be some mistake. How can you have hungry people among you and not know about it?

Oh, sure, we know there are poor people among us who need help. We see people using food stamps and we know there is a need for the Salvation Army pantry to provide food help to people. But hunger, the kind of hunger we see on TV, the kind of hunger that never goes away, the kind that haunts the eyes of babies? There must be some mistake. We take care of ourselves and our own don't we?

So we have been waiting with some trepidation as a group, part of the Physicians Task Force on Hunger, came to South Dakota to examine the situation. And we are still waiting, still with some trepidation.

There has been considerable speculation that the combination of poverty-level income and food stamp use, on which the original rankings were made, may be a faulty yardstick in a place like South Dakota where a $10,000 annual income goes farther than it might go elsewhere and where, as we said, people are less apt to apply for food stamps if they don't really need them.

And the task force confirmed some of that along with unique local problems and embarrassment of those applying for food stamps.

A staff member said the task force wants to know why there are so many people who are eligible but are not participating in the food stamp programs. So do we.

She said the task force wants to find out if people's basic nutritional needs are being met. So do we.

We are, most of us, exceedingly uncomfortable being labeled as the kind of folks who would let people go hungry.

If the study is right and something has gone wrong, we want to fix it. After years and years of feeding a large part of the country—of the world—we ought to know something in South Dakota about feeding the hungry.

## THE BATTLE AGAINST TERRORISM

Mr. PRESSLER. Mr. President, I call the Senate's attention to the need for a better definition, or perhaps a study or recommendation, on the part of the White House regarding Executive Order 12333 which prohibits any member of the U.S. Government from being involved in assassinations.

Mr. President, in the battle against terrorism, many options must be considered, including the kind of direct military actions we took against Libyan targets last week.

Another option which is prohibited to our Government is the assassination of individual terrorists. That option is precluded by section 2.11 of Executive Order 12333, which reads:

*Prohibition on Assassination.* No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

This order has been in effect since December 4, 1981, but the prohibition against assassination has been in existence since Executive Order 12036 was issued on January 24, 1978.

Although I am not advocating a change in this policy, it is clear that Executive Order 12333 effectively requires military operations against larger targets whenever we decide to use force to combat terrorism. It is virtually impossible for us to single out individual terrorists for extermination or elimination. We could bomb cities or neighborhoods known to harbor specific terrorists, but in the process of doing that there is a risk of killing or injuring other people, too.

An unstated justification for the U.S. prohibition on the use of assassination as an instrument of national policy is that it protects our own leaders from assassination. In the aftermath of alleged assassination attempts against Fidel Castro, and subsequent Cuban plots against high American officials, it was assumed that the renunciation of assassination as a foreign policy tool would reduce possibility of physical violence against U.S. officials.

Mr. President, I do not propose that we revert to the age of Machiavelli, when assassination was a common instrument of state policy. But I do believe we should broaden the President's options for coping with terrorism. The military option, as demonstrated in the Libyan case last week, is a massive tool with which to pursue terrorists. I do not question the propriety of utilizing that option in this case, and I do support the President's action. But we should be considering whether there are other ways to combat terrorists than by aerial or missile bombardment of cities.

We may be in a new era in which warfare is conducted by terrorism. If that is the case, the President and Congress should consider whether new retaliatory options should be developed. If he feels they are necessary, Congress should welcome any Presidential legislative proposals which could broaden the opportunities for effective action against the terrorist menace.

Mr. President, let me cite an example. As I understand our current law, if the President of the United States were to know of one specific terrorist who had murdered several Americans, had documentation on tape of the murders, and knew that the terrorist was living in a country that did not permit extradition, then there would be a justification for bombing a military compound or a village in which that person lived. If our objective were to retaliate, which might endanger many other innocent people, then we could act in that manner. But if this person were living alone in a house, in an open area, it would violate our Executive order to go after him specifically.

I do not know what the future holds in terms of terrorist activities. I hope this dies down, and I do not know if this is an appropriate response.

There was some speculation that part of our objective in Libya was to kill Qadhafi, but we ended up killing his daughter and several other people, which perhaps set our own foreign policy back a bit in terms of our ultimate objective. I do support what the President did.

The point I am making is that this Senator would welcome any legislative proposals which would broaden the opportunities for effective action against the terrorist menace, and the Office of the President, the National Security Council, the Secretary of Defense, State, and the CIA could well make such recommendations.

I know that it is repugnant to our thinking and repugnant in a democracy to even talk of such things, but we may be living in an era in which, to protect the lives of American citizens, we might need to consider changing that Executive order.

Mr. President, I yield back the balance of my time.

## LEAVE OF ABSENCE

Mr. MATHIAS. Mr. President, pursuant to the provisions of rule VI of the Senate, I request the consent of the Senate to be absent from April 24 through April 30 for the purpose of discharging the duties of the president of the North Atlantic Assembly, for attending a conference, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## SENATOR PROXMIRE'S ATTENDANCE RECORD

Mr. DANFORTH. Mr. President, on this day 20 years ago, Lyndon Johnson of Texas occupied the White House. I was a young lawyer in private practice.

My regard for the feelings of my colleagues prevents me from recalling just how young I was in 1966. But my years were few. My esteemed senior colleague, Senator EAGLETON, was the Lieutenant Governor of Missouri and well launched on his illustrious career.

I rise today to honor a Senator who was completing a decade of distinguished service to the State of Wisconsin and to the Nation on April 20, 1966. I refer to our colleague Senator WILLIAM PROXMIRE.

The date April 20, 1966, is significant, Mr. President, because it is the last time that Senator PROXMIRE was absent for a rollcall vote in the Senate. The vote he missed was a rollcall of 63 to 21 in favor of adopting a resolution to authorize the Finance Committee to increase its permanent professional staff by six and to hire six clerical employees on a temporary basis.

I am confident that he still rues having missed a chance to vote against more congressional staff. Since missing that vote, Senator PROXMIRE has cast 9,178 consecutive rollcall votes.

Since 1973, Senator PROXMIRE has held the record for consecutive rollcall votes. Since 1978, he has held the record for consecutive years without a miss. He has cast more votes in the Senate than any other Member, past or present. Truly, he is an amazing person.

To serve for 20 years without missing a rollcall vote is an awesome accomplishment. I consider it a privilege to serve with Senator PROXMIRE and to join in honoring him on this day.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

## CONCURRENT RESOLUTION ON THE BUDGET

Mr. DOLE. Mr. President, there has just been a meeting with the Speaker of the House, Mr. O'NEILL; myself; the distinguished minority leader; Senator CHILES; Senator DOMENICI; the Republican leader in the House, Representative MICHEL; Representative FOLEY; the majority whip in the House, Representative WRIGHT; and Representative GRAY, to determine whether or not we could work out a timetable for consideration of the budget.

The House has not even had a budget markup. The Senate has been prepared, I think, for 7, 8, or 9 legislative days. It was reported right before the Easter recess.

This Senator, working with the chairman of the Budget Committee, Senator DOMENICI, has been trying to determine which course to follow. As I have indicated to the chairman of the Budget Committee, I think he did an outstanding job. We now have a budget ready for consideration.

I have also indicated to the Senator from New Mexico [Mr. DOMENICI] that at this point I could not support the budget resolution.

In my view, we need to take a look at the revenues, which in my view are too high. I think we can do better in the spending reductions, and I think we do need to add some for defense. I think in some of the areas there is no disagreement. The question is whether or not we have the votes.

Based on the meeting we just attended, it was clear to us—in fact, we were just flat-out told—that the House would not consider the budget until about 72 hours after it passes the Senate.

So now the choice is either do nothing or to proceed and hope that we can work out some bipartisan resolution on this side before sending it to the House.

The complicating factor is the fact, of course, the President leaves Friday for Tokyo and he will be gone for 13 days.

So it would be my hope that we would have some general framework of an agreement with the President or his associates prior to their departure.

Some will say it does not make any difference, the President does not sign the budget resolution, but it does make a difference. The President is a key player, whether he is Ronald Reagan or some other President. Because if the budget resolution passes, that will be followed by reconciliation. And reconciliation will depend on what we had in the budget resolution. So the President is indirectly a very key player and should be.

The President has indicated he will not support the tax increase in the budget resolution reported by the Senate Budget Committee on a bipartisan basis, seven Republicans and six Democrats.

About 25 Republicans have indicated in a letter to me that they will not support the Senate Budget Committee's efforts because of the defense numbers, the revenue numbers, and the fact that the spending reductions are not large enough.

So, it is my opinion, having stated this, that we should move ahead with the budget process. We have 50 hours of debate. Hopefully, we will not use all that time. But hopefully in the interim, there will be amendments that will improve upon the product that is now pending. And I say that without any criticism of anyone in the Budget Committee, particularly the chairman and the ranking minority member, Senator CHILES.

I believe the meeting with the Speaker was helpful. They made it very clear they had no intention of proceeding with the budget until the Senate had completed its action.

The President has said, as recently as his latest press conference, that we ought to proceed with the budget resolution. I do not believe any of us want to see Gramm-Rudman triggered again. It does not make any difference what the Supreme Court may say.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If there be no further morning business, morning business is closed.

## CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1987

Mr. DOLE. Mr. President, it is my understanding that this is a privileged matter, and I ask the Senate to proceed to the consideration of Senate Concurrent Resolution 120.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 120) setting forth the congressional budget for the United States Government for the fiscal years 1987, 1988, and 1989.

The Senate proceeded to the consideration of the concurrent resolution, which had been reported from the Committee on the Budget; as follows:

S. CON. RES. 120

*Resolved by the Senate (the House of Representatives concurring),* That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1987 is established and the appropriate budgetary levels for fiscal years 1988 and 1989 are set forth.

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1986, October 1, 1987, and October 1, 1988:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1987: $647,700,000,000.
Fiscal year 1988: $703,900,000,000.
Fiscal year 1989: $754,400,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1987: $18,700,000,000.
Fiscal year 1988: $26,800,000,000.
Fiscal year 1989: $28,800,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1987: $55,500,000,000.
Fiscal year 1988: $59,800,000,000.
Fiscal year 1989: $63,800,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1987: $882,900,000,000.
Fiscal year 1988: $927,000,000,000.
Fiscal year 1989: $956,400,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1987: $809,000,000,000.
Fiscal year 1988: $847,300,000,000.
Fiscal year 1989: $869,200,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1987: $161,300,000,000.
Fiscal year 1988: $143,400,000,000.
Fiscal year 1989: $114,800,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1987: $2,323,100,000,000.
Fiscal year 1988: $2,523,000,000,000.
Fiscal year 1989: $2,697,700,000,000.

and the amounts by which the statutory limits on such debt should be accordingly increased are as follows:

Fiscal year 1987: $216,900,000,000.
Fiscal year 1988: $199,900,000,000.
Fiscal year 1989: $174,700,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1986, October 1, 1987, and October 1, 1988, are as follows:

Fiscal year 1987:
(A) New direct loan obligations, $34,700,000,000.
(B) New primary loan guarantee commitments, $86,400,000,000.
(C) New secondary loan guarantee commitments, $55,200,000,000.

Fiscal year 1988:
(A) New direct loan obligations, $32,300,000,000.
(B) New primary loan guarantee commitments, $88,500,000,000.
(C) New secondary loan guarantee commitments, $55,200,000,000.

Fiscal year 1989:
(A) New direct loan obligations, $30,200,000,000.
(B) New primary loan guarantee commitments, $89,000,000,000.
(C) New secondary loan guarantee commitments, $55,200,000,000.

(b) The following levels and amounts are set forth for purposes of determining, in accordance with the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, as reported, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution, as reported:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1987: $862,700,000,000.
Fiscal year 1988: $947,800,000,000.
Fiscal year 1989: $1,020,100,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1987: $1,097,300,000,000.
Fiscal year 1988: $1,169,500,000,000.
Fiscal year 1989: $1,220,400,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1987: $1,006,600,000,000.
Fiscal year 1988: $1,055,700,000,000.
Fiscal year 1989: $1,088,700,000,000.

(4) The amounts by which the levels of total budget outlays set forth in paragraph (3) exceed the corresponding levels of Federal revenues set forth in paragraph (1) are as follows:

Fiscal year 1987: $143,900,000,000.
Fiscal year 1988: $107,900,000,000.
Fiscal year 1989: $68,600,000,000.

(c) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for fiscal years 1987 through 1989 for each major functional category are:

(1) National Defense (050):

Fiscal year 1987:
(A) New budget authority, $295,100,000,000.
(B) Outlays, $280,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1988:
(A) New budget authority, $309,000,000,000.
(B) Outlays, $290,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1989:
(A) New budget authority, $323,600,000,000.
(B) Outlays, $303,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1987:
(A) New budget authority, $18,300,000,000.
(B) Outlays, $14,400,000,000.
(C) New direct loan obligations, $7,400,000,000.
(D) New primary loan guarantee commitments, $11,700,000,000.
(E) New secondary loan guarantee commitments, $200,000,000.

Fiscal year 1988:
(A) New budget authority, $18,100,000,000.
(B) Outlays, $14,200,000,000.
(C) New direct loan obligations, $7,500,000,000.
(D) New primary loan guarantee commitments, $11,700,000,000.
(E) New secondary loan guarantee commitments, $200,000,000.

Fiscal year 1989:
(A) New budget authority, $17,300,000,000.
(B) Outlays, $13,600,000,000.
(C) New direct loan obligations, $7,700,000,000.
(D) New primary loan guarantee commitments, $11,700,000,000.
(E) New secondary loan guarantee commitments, $200,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1987:
(A) New budget authority, $10,000,000,000.
(B) Outlays, $9,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1988:
(A) New budget authority, $10,100,000,000.
(B) Outlays, $9,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1989:
(A) New budget authority, $10,600,000,000.
(B) Outlays, $10,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1987:
(A) New budget authority, $4,900,000,000.
(B) Outlays, $5,000,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1988:
(A) New budget authority, $5,700,000,000.
(B) Outlays, $5,400,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1989:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $4,900,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1987:
(A) New budget authority, $12,500,000,000.
(B) Outlays, $12,600,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1988:
(A) New budget authority, $12,600,000,000.
(B) Outlays, $12,600,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1989:
(A) New budget authority, $12,400,000,000.
(B) Outlays, $12,700,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1987:
(A) New budget authority, $23,800,000,000.
(B) Outlays, $23,500,000,000.
(C) New direct loan obligations, $14,300,000,000.
(D) New primary loan guarantee commitments, $8,000,000,000.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1988:
(A) New budget authority, $26,100,000,000.
(B) Outlays, $24,900,000,000.
(C) New direct loan obligations, $12,100,000,000.
(D) New primary loan guarantee commitments, $8,500,000,000.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1989:
(A) New budget authority, $25,300,000,000.
(B) Outlays, $21,600,000,000.

(C) New direct loan obligations, $11,300,000,000.
(D) New primary loan guarantee commitments, $8,500,000,000.
(E) New secondary loan guarantee commitments, $0.
(7) Commerce and Housing Credit (370):
Fiscal year 1987:
(A) New budget authority, $10,000,000,000.
(B) Outlays, $4,300,000,000.
(C) New direct loan obligations, $4,500,000,000.
(D) New primary loan guarantee commitments, $39,400,000,000.
(E) New secondary loan guarantee commitments, $55,000,000,000.
Fiscal year 1988:
(A) New budget authority, $10,500,000,000.
(B) Outlays, $6,300,000,000.
(C) New direct loan obligations, $4,300,000,000.
(D) New primary loan guarantee commitments, $40,000,000,000.
(E) New secondary loan guarantee commitments, $55,000,000,000.
Fiscal year 1989:
(A) New budget authority, $7,500,000,000.
(B) Outlays, $1,400,000,000.
(C) New direct loan obligations, $4,500,000,000.
(D) New primary loan guarantee commitments, $39,500,000,000.
(E) New secondary loan guarantee commitments, $55,000,000,000.
(8) Transportation (400):
Fiscal year 1987:
(A) New budget authority, $26,800,000,000.
(B) Outlays, $27,800,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $100,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $26,500,000,000.
(B) Outlays, $26,700,000,000.
(C) New direct loan obligations, $400,000,000.
(D) New primary loan guarantee commitments, $100,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $26,600,000,000.
(B) Outlays, $26,800,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $100,000,000.
(E) New secondary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1987:
(A) New budget authority, $6,900,000,000.
(B) Outlays, $7,200,000,000.
(C) New direct loan obligations, $1,100,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $7,200,000,000.
(B) Outlays, $7,000,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $7,100,000,000.
(B) Outlays, $6,800,000,000.
(C) New direct loan obligations, $1,100,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1987:
(A) New budget authority, $30,600,000,000.
(B) Outlays, $30,200,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $10,300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $30,300,000,000.
(B) Outlays, $30,500,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $10,700,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $30,200,000,000.
(B) Outlays, $30,200,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $11,000,000,000.
(E) New secondary loan guarantee commitments, $0.
(11) Health (550):
Fiscal year 1987:
(A) New budget authority, $37,900,000,000.
(B) Outlays, $37,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $40,000,000,000.
(B) Outlays, $40,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $42,000,000,000.
(B) Outlays, $41,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
(12) Medicare (570):
Fiscal year 1987:
(A) New budget authority, $82,900,000,000.
(B) Outlays, $72,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $90,900,000,000.
(B) Outlays, $80,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $100,800,000,000.
(B) Outlays, $88,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1987:
(A) New budget authority, $160,900,000,000.
(B) Outlays, $121,500,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $169,200,000,000.
(B) Outlays, $128,200,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $173,200,000,000.
(B) Outlays, $133,100,000,000.
(C) New direct loan obligations, $700,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1987:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $5,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $6,100,000,000.
(B) Outlays, $6,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $6,900,000,000.
(B) Outlays, $6,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1987:
(A) New budget authority, $27,300,000,000.
(B) Outlays, $26,600,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $16,300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $27,500,000,000.
(B) Outlays, $27,100,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $16,900,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $27,600,000,000.
(B) Outlays, $27,300,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $17,600,000,000.

(E) New secondary loan guarantee commitments, $0.
(16) Administration of Justice (750):
Fiscal year 1987:
(A) New budget authority, $7,000,000,000.
(B) Outlays, $7,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $7,100,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $7,000,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1987:
(A) New budget authority, $5,700,000,000.
(B) Outlays, $5,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $6,100,000,000.
(B) Outlays, $6,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $6,200,000,000.
(B) Outlays, $6,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(18) General Purpose Fiscal Assistance (850):
Fiscal year 1987:
(A) New budget authority, $2,000,000,000.
(B) Outlays, $2,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $2,000,000,000.
(B) Outlays, $2,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $2,100,000,000.
(B) Outlays, $2,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(19) Net Interest (900):
Fiscal year 1987:
(A) New budget authority, $149,300,000,000.
(B) Outlays, $149,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $158,100,000,000.
(B) Outlays, $158,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $158,500,000,000.
(B) Outlays, $158,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(20) Allowances (920):
Fiscal year 1987:
(A) New budget authority, $1,900,000,000.
(B) Outlays, $1,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $4,400,000,000.
(B) Outlays, $4,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $6,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(21) Undistributed Offsetting Receipts (950):
Fiscal year 1987:
(A) New budget authority, −$36,500,000,000.
(B) Outlays, −$36,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, −$40,500,000,000.
(B) Outlays, −$40,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, −$40,000,000,000.
(B) Outlays, −$40,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than May 15, 1986, the committees named in subsections (b) through (y) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b) The Senate Committee on Agriculture, Nutrition, and Forestry shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $135,000,000 in budget authority and $135,000,000 in outlays in fiscal year 1987, $291,000,000 in budget authority and $291,000,000 in outlays in fiscal year 1988, and $350,000,000 in budget authority and $350,000,000 in outlays in fiscal year 1989.

(c) The Senate Committee on Armed Services shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $16,000,000 in budget authority and $16,000,000 in outlays in fiscal year 1987, $1,696,000,000 in budget authority and $1,652,000,000 in outlays in fiscal year 1988, and $123,000,000 in budget authority and $123,000,000 in outlays in fiscal year 1989.

(d) The Senate Committee on Banking, Housing, and Urban Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $852,000,000 in budget authority and $740,000,000 in outlays in fiscal year 1987, $826,000,000 in budget authority and $1,177,000,000 in outlays in fiscal year 1988, and $765,000,000 in budget authority and $617,000,000 in outlays in fiscal year 1989.

(e) The Senate Committee on Commerce, Science, and Transportation shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $58,000,000 in budget authority and $63,000,000 in outlays in fiscal year 1987, $68,000,000 in budget authority and $71,000,000 in outlays in fiscal year 1988, and $68,000,000 in budget authority and $69,000,000 in outlays in fiscal year 1989.

(f) The Senate Committee on Energy and Natural Resources shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section

401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, or (3) any combination thereof, sufficient to increase contributions and reduce budget authority and outlays as follows: $943,000,000 in contributions, $424,000,000 in budget authority and $424,000,000 in outlays in fiscal year 1987, $858,000,000 in contributions, $65,000,000 in budget authority and $86,000,000 in outlays in fiscal year 1988, and $664,000,000 in contributions, $80,000,000 in budget authority and $116,000,000 in outlays in fiscal year 1989.

(g) The Senate Committee on Environment and Public Works shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $2,611,000,000 in budget authority and $81,000,000 in outlays in fiscal year 1987, $3,077,000,000 in budget authority and $862,000,000 in outlays in fiscal year 1988, and $3,562,000,000 in budget authority and $1,242,000,000 in outlays in fiscal year 1989.

(h)(1) The Senate Committee on Finance shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $0 in budget authority and $7,041,000,000 in outlays in fiscal year 1987, $0 in budget authority and $10,248,000,000 in outlays in fiscal year 1988, and $0 in budget authority and $12,393,000,000 in outlays in fiscal year 1989.

(2) The Senate Committee on Finance shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $19,300,000,000 in fiscal year 1987; $27,600,000,000 in fiscal year 1988; and $29,800,000,000 in fiscal year 1989.

(i) The Senate Committee on Governmental Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $0 in budget authority and $2,603,000,000 in outlays in fiscal year 1987, $0 in budget authority and $3,771,000,000 in outlays in fiscal year 1988, and $0 in budget authority and $4,375,000,000 in outlays in fiscal year 1989.

(j)(1) The Senate Committee on Labor and Human Resources shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $230,000,000, in budget authority and $205,000,000 in outlays in fiscal year 1987, $480,000,000, in budget authority and $457,000,000 in outlays in fiscal year 1988, and $612,000,000, in budget authority and $611,000,000 in outlays in fiscal year 1989.

(2) The Senate Committee on Labor and Human Resources shall report changes in the laws within its jurisdiction which provide spending authority as defined in section 3(10) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce direct loan obligations by $41,000,000 in fiscal year 1987, $60,000,000 in fiscal year 1988, and $139,000,000 in fiscal year 1989, and sufficient to reduce primary loan guarantee commitments by $235,000,000 in fiscal year 1987, $15,000,000 in fiscal year 1988, and $0 in fiscal year 1989.

(k)(1) The Senate Committee on Small Business shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $735,000,000 in budget authority and $848,000,000 in outlays in fiscal year 1987, $1,066,000,000 in budget authority and $1,131,000,000 in outlays in fiscal year 1988, and $1,328,000,000 in budget authority and $1,474,000,000 in outlays in fiscal year 1989.

(2) The Senate Committee on Small Business shall report changes in the laws within its jurisdiction which provide credit authority as defined in section 3(10) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce direct loan obligations by $1,005,000,000 in fiscal year 1987, $1,491,000,000 in fiscal year 1988, and $1,555,000,000 in fiscal year 1989.

(l) The Senate Committee on Veterans' Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $356,000,000 in budget authority and $356,000,000 in outlays in fiscal year 1987, $473,000,000 in budget authority and $473,000,000 in outlays in fiscal year 1988, and $512,000,000 in budget authority and $512,000,000 in outlays in fiscal year 1989.

HOUSE COMMITTEES

(m) The House Committee on Agriculture shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $135,000,000 in budget authority and $135,000,000 in outlays in fiscal year 1987, $291,000,000 in budget authority and $291,000,000 in outlays in fiscal year 1988, and $350,000,000 in budget authority and $350,000,000 in outlays in fiscal year 1989.

(n) The House Committee on Armed Services shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $16,000,000, in budget authority and $16,000,000 in outlays in fiscal year 1987, $1,696,000,000 in budget authority and $1,652,000,000 in outlays in fiscal year 1988, and $123,000,000 in budget authority and $123,000,000 in outlays in fiscal year 1989.

(o) The House Committee on Banking, Finance and Urban Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $852,000,000 in budget authority and $740,000,000 in outlays in fiscal year 1987, $826,000,000 in budget authority and $1,177,000,000 in outlays in fiscal year 1988, and $765,000,000 in budget authority and $617,000,000 in outlays in fiscal year 1989.

(p)(1) The House Committee on Education and Labor shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $230,000,000 in budget authority and $205,000,000 in outlays in fiscal year 1987, $480,000,000 in budget authority and $457,000,000 in outlays in fiscal year 1988, and $612,000,000 in budget authority and $611,000,000 in outlays in fiscal year 1989.

(2) The House Committee on Education and Labor shall report changes in laws within its jurisdiction which provide credit authority as defined in section 3(10) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce direct loan obligations by $41,000,000 in fiscal year 1987, $60,000,000 in fiscal year 1988, and $139,000,000 in fiscal year 1989, and sufficient to reduce primary loan guarantee commitments by $235,000,000 in fiscal year 1987, $15,000,000 in fiscal year 1988, and $0 in fiscal year 1989.

(q) The House Committee on Energy and Commerce shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, (2) changes in laws within its jurisdiction which

provide spending authority other than as defined in section 401(c)(2)(C) of the Act, or (3) any combination thereof, sufficient to increase contributions and reduce budget authority and outlays as follows: $943,000,000 in contributions, $139,000,000 in budget authority and $2,781,000,000 in outlays in fiscal year 1987, $858,000,000 in contributions, $155,000,000 in budget authority and $4,888,000,000 in outlays in fiscal year 1988, and $664,000,000 in contributions, $160,000,000 in budget authority and $7,128,000,000 in outlays in fiscal year 1989.

(r) The House Committee on Government Operations shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $0 in budget authority and $3,654,000,000 in outlays in fiscal year 1987, $0 in budget authority and $4,572,000,000 in outlays in fiscal year 1988, and $0 in budget authority and $4,667,000,000 in outlays in fiscal year 1989.

(s) The House Committee on Interior and Insular Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $424,000,000 in budget authority and $424,000,000 in outlays in fiscal year 1987, $65,000,000 in budget authority and $65,000,000 in outlays in fiscal year 1988, and $80,000,000 in budget authority and $80,000,000 in outlays in fiscal year 1989.

(t) The House Committee on Merchant Marine and Fisheries shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $0 in budget authority and $5,000,000 in outlays in fiscal year 1987, $0 in budget authority and $3,000,000 in outlays in fiscal year 1988, and $0 in budget authority and $1,000,000 in outlays in fiscal year 1989.

(u) The House Committee on Post Office and Civil Service shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $0 in budget authority and $2,321,000,000 in outlays in fiscal year 1987, $0 in budget authority and $3,766,000,000 in outlays in fiscal year 1988, and $0 in budget authority and $4,275,000,000 in outlays in fiscal year 1989.

(v) The House Committee on Public Works and Transportation shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $2,538,000,000 in budget authority and $8,000,000 in outlays in fiscal year 1987, $2,998,000,000 in budget authority and $783,000,000 in outlays in fiscal year 1988, and $3,479,000,000 in budget authority and $1,159,000,000 in outlays in fiscal year 1989.

(w)(1) The House Committee on Small Business shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $735,000,000 in budget authority and $848,000,000 in outlays in fiscal year 1987, $1,066,000,000 in budget authority and $1,131,000,000 in outlays in fiscal year 1988, and $1,328,000,000 in budget authority and $1,474,000,000 in outlays in fiscal year 1989.

(2) The House Committee on Small Business shall report changes in laws within its jurisdiction which provide credit authority as defined in section 3(10) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce direct loan obligations by $1,005,000,000 in fiscal year 1987, $1,491,000,000 in fiscal year 1988, and $1,555,000,000 in fiscal year 1989.

(x) The House Committee on Veterans' Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce budget authority and outlays, (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (3) any combination thereof, as follows: $356,000,000 in budget authority and $356,000,000 in outlays in fiscal year 1987, $473,000,000 in budget authority and $473,000,000 in outlays in fiscal year 1988, and $512,000,000 in budget authority and $512,000,000 in outlays in fiscal year 1989.

(y)(1) The House Committee on Ways and Means shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act Act of 1974, sufficient to reduce budget authority and outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $0 in budget authority and $3,409,000,000 in outlays in fiscal year 1987, $0 in budget authority and $5,019,000,000 in outlays in fiscal year 1988, and $0 in budget authority and $6,644,000,000 in outlays in fiscal year 1989.

(2) The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $19,300,000 in fiscal year 1987, $27,600,000 in fiscal year 1988, and $29,800,000 in fiscal year 1989.

GENERAL REVENUE SHARING

SEC. 3. Upon the enactment of legislation authorizing up to $1,800,000,000 for the purpose of funding an extension for General Revenue Sharing in fiscal year 1987, and upon the enactment of legislation increasing revenues in an amount equal to the amount authorized and in addition to amounts of increased revenues required to be reported pursuant to section 2 of this concurrent resolution, the authorized amount of budget authority and outlays shall be allocated to the Senate Committees on Appropriations and Finance, as appropriate, and that same amount will be added to the total amounts of budget authority and outlays provided for in this concurrent resolution.

Mr. BYRD. Mr. President, I compliment the distinguished majority leader on his decision to proceed now with the budget resolution.

I think our manager on this side is in the neighborhood. He was at the meeting with the House leadership to which Mr. DOLE has just referred. I suggest that we have a quorum call so as to allow him and his staff to come to the Senate floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator wish the quorum call to be equally divided?

Mr. BYRD. I ask unanimous consent that the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I am advised that both the distinguished chairman of the committee, Senator DOMENICI, and the ranking Democrat, Senator CHILES, would like to speak on the budget and they would like to do that at about 4:10 p.m.

RECESS UNTIL 4:10 P.M.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate stand in recess until 4:10 p.m. today.

There being no objection, the Senate at 3:27 p.m. recessed until 4:10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. WARNER].

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself as much time as I need at this point.

Mr. President, I am pleased to begin consideration of Senate Concurrent Resolution 120, the concurrent resolution of the budget for 1987. I should like to begin by complimenting the members of the Budget Committee for their work in reporting a budget resolution in a prompt and expeditious manner. I am also grateful to the majority leader for his continual efforts to see that alternative views had an opportunity to be presented before we began consideration of this resolution.

Mr. President, in my office I have an old print depicting the ancient Greek, Sisyphus, who was destined to spend his afterlife pushing a rock up a mountain, only in this print he is pushing a budget instead of a giant rock. One will recall that every time he reached the top of the mountain, the rock came rolling down over him. I hope we are able to complete the 1987 budget and get it over the mountain, and I hope we will do it in such a way that it will not come rolling back down in August and September. I am very hopeful that it will not come rolling back down next year or in the years to come.

Senate Concurrent Resolution 120 is the first attempt by either House to meet the official goals adopted under the new Gramm-Rudman-Hollings budget procedures just 4 months ago. This resolution meets the targets required under this new budget law not only for 1987 but for the next 3 fiscal years. It meets these targets in a balanced way, a way which requires tremendous compromise and tremendous political courage among the individual members of the Budget Committee who voted for it. This resolution will get that budget rock up and over the mountain for the next 3 years if things go well for America, if the economy continues its robust recovery. If for the next 3 to 5 years, the U.S. economy can grow an average 3.4 to 3.7 percent per year. Even though that is optimistic but from everything we can find out about the American economy today it is credible. And, that is my only caveat in terms of whether the rock will come tumbling back down, indeed, we need to sustain the optimistic outlook for the economy for the next 3 to 5 years.

I should also add that whether we are able to keep that giant budget rock from coming back down upon us, defense will clearly have to be restrained. It certainly will have to go up a little bit but not nearly as much as the President asked for. Modernization and restraint in defense alone will contribute substantially to whether we can make those targets in the out years.

Ultimately, I believe that something very close to this budget will be found to reflect the political consensus of the full Senate.

Now, understand that I have said "very close." Obviously, very few budgets save and except perhaps the very first one under my chairmanship in 1981, have gone all the way through Senate floor consideration without some changes.

The full Senate, with its majority vote, has tremendous latitude to change it in any way it wishes. But as the Senate works its will on this budget there are some important changes to keep in mind under Gramm-Rudman-Hollings.

I am sure there will be some who will say we want more money in this function or that function or more for defense. I think everyone should know the ground rules are substantially different. You cannot just come in and add more money anymore. An amendment is out of order unless in adding more money for one area you subtract an equal amount somewhere else or you add more to the revenue side. Those are the ground rules under Gramm-Rudman-Hollings.

Senate Concurrent Resolution 120 proposes $173 billion in total deficit reduction over the years 1987, 1988, and 1989. That is using the same baseline, for Senators who are wondering, what the President used for his domestic spending, that is current policy as defined by the Congressional Budget Office. The baseline in this budget assumes automatic cost-of-living allowances for all veterans and a full inflation adjustment for most discretionary programs.

This estimate of total budget saving, $173 billion, is not based on the President's baseline on defense, however. In his fiscal year 1987 budget request, the President used last year's congressional budget resolution for defense as the baseline. The CBO baseline for defense, which is the basis for this budget resolution, begins from CBO's current level for defense for fiscal year 1986, $291 billion, and adjusts fiscal year 1987 and the out years fully for inflation. This means that the CBO baseline assumes a full inflation adjustment for defense, similar to its contention for nondefense programs, but no real growth. This is in contrast to the President's baseline that already includes substantial real growth.

What makes up the $173 billion in budget saving? More than half, 57 percent, come from the spending side of the budget. And a vast majority of those spending savings come from nondefense programs. Over the 3-year period, less than 20 percent of the savings come from defense off the baseline which I have just described. The budget does call for new revenues which account for just over 40 percent of the total reductions in this budget.

This is in my opinion a balanced approach. I am quick to say, as I said when I opened the budget markup with the 22 Senators, 12 Republicans and 10 Democrats, it takes a majority of Senators, Republicans and Democrats, to vote out a budget resolution. If this were my budget and mine alone, it would be different than the one we have before us today. But, I am not a dictator in the U.S. Senate, nor even in committee. I do my share of leading. I do my share of proposing. But ultimately, a majority of Senators elected by the American people will vote for this, or a substantially altered budget. The full Senate will work its will on this budget over the next 6 or 7 days. This is the way our political system works and I am glad of that.

This budget is a balanced plan. It seems to me that everyone shares the burden, and yet, most important, national priorities ranging from national defense to programs for the elderly and needy are protected.

I might say right up front, for those who are wondering about the senior citizens of our country, obviously the message has come across loud and clear that Social Security shall not be touched. Social Security recipients shall be entitled to their automatic cost-of-living increase. I might add, however, that, in addition to Social Security, there are two other major pension programs, military retirees and civilian retirees, that receive full COLA's. This year, under the sequester the COLA's in these programs were frozen for a year. I did not support this but it was required by Gramm-Rudman-Hollings. I thought it should be all pension programs or hone. That did not prevail, and we selectively froze the pensions I have just described and some minor ones. This budget resolution provides full COLA's for all our retirees.

Furthering, this budget provides full funding for nutrition programs and other programs for the poor. It also provides the full inflation increase for basic research and other high priority programs.

There are some programs which were reduced under Gramm-Rudman, arbitrarily and indiscriminately, that now need add-ons. The NASA program clearly cries out for some additional resources. This resolution adds funding for airport safety; drug enforcement; Embassy security around the world—not as much as was requested, but an increase; and a small amount for a new farm credit program—a total of $100 million, it is my recollection, to start such a credit program, in outlays. The money for NASA is fenced, permitting a new budget authority for related matters if, and only if, Congress votes that program in. Many of these increases I have just stated and a few others, as I have said, were requested by the President.

From the perspective of this Senator, it is precisely because this budget is a consensus budget that colleagues

have expressed some dissatisfaction with one or another part of it. For some, the defense number is too low, especially on top of last year's sequester. For others, the defense number is still too high, particularly when domestic programs have to be cut or frozen. Still others object to the mix of domestic spending and revenues. Others would say, "We must get where we ought to go without 1 cent of new revenues or new taxes."

Frankly I understand each and every one of those views. I trust that those Senators who feel particularly motivated by any one of these approaches will understand that many of the 13 who voted for this budget resolution would prefer that they had had it totally their way. Some certainly would agree with those who think there should not be any tax increases over that which the President has already requested.

For my part, I have concluded that there is no way to get where we ought to be, where we have committed ourselves to be when we voted overwhelmingly for Gramm-Rudman-Hollings, without some revenues. From the perspective of this Senator, there is no question in my mind that we cannot get where we have to be, where we ordered ourselves to be, where we voted ourselves to be, without some additional revenues over those which the President has asked of us.

Obviously, there are some who, in addition to what I have just said by way of a general description, have other things on their minds. Some would say: "We don't have to do anything. Let's set the budget aside, perhaps getting no appropriation bills, and deal with everything at the end. Let's take a big chance that we can predict what things will look like in August and September, when the triggering mechanism of Gramm-Rudman-Hollings comes into effect." I do not think we voted for Gramm-Rudman-Hollings in order to engage in that kind of legislative draft.

There may even be some who are saying: "We voted for Gramm-Rudman-Hollings. But we don't think the Supreme Court is going to let us enforce it. We think the Court will find some aspect of it unconstitutional, Congress would never vote in the triggering mechanism under Gramm-Rudman-Hollings and we will have avoided all of the difficult choices.

I do not happen to be of that persuasion. First, I think there is better than a 50-50 chance that the Supreme Court will reverse the first court. We here will wait around until August to find that there is a major sequester ordered in by bureaucrats we have given direction to, who will do their job.

I even believe that if one part, say the GAO triggers were held unconstitutional, Congress would not dare go home without voting in that sequester by way of that simple resolution prescribed in the law. I believe, as my good friend from Florida has said, that would be a pox on all of our houses, for us to go home and seek reelection—the entire House and one-third of the Senate—saying that we voted for Gramm-Rudman, we sent all these messages across the country that it was going to fix our national policy, we let the first round of cuts be put in place, but we could not find the courage to vote for a budget resolution this year.

I, for one, believe it is better to do something, even if it is not exactly what you want, than to do nothing and take the chance that I have just described.

To my friends in the Senate, we do not have the luxury of holding fast to our individual preferences as we may have had in past years. Under the backup procedures in Gramm-Rudman-Hollings which now appear to be the likely vehicle for a sequester, we will have to face a budget vote, whether we like it or not. We can either vote now on a balanced plan that has broad-based bipartisan support, a balanced set of priorities, and a good chance for implementation; or we can gamble, as I have just described. Incidentally, if we do that, I am absolutely convinced we will gut national defense, we will freeze civil service and retirement COLA's for the second year running, I might add, and seriously impair a broad range of domestic programs.

In this sense then, the sequester budget is really the appropriate standard against which to gauge a congressional budget. I say that because it is a probable reality and because I believe that the Gramm-Rudman-Hollings sequester should for each and every one of the 5 years of this emergency bill be used as the ultimate standard against which we measure what we ought to do.

I personally would have liked to have set the defense numbers higher than the level contained in this resolution. But I voted for this budget because I wanted to vote for a defense level that is $20 billion above the funding ceiling under a sequester. Might I repeat that. I voted for this budget because I wanted to vote for a defense level that is at least $20 billion above funding ceilings under a sequester.

I believe the $295 billion in defense authority in Senate Concurrent Resolution 120 will turn out in the end to be the best we can get. Indeed, against the prospective $20 billion increase in defense relative to the sequester level, the $18.5 billion in new revenues does not appear very large.

Granted that is my way of measuring it and my way of looking at it, but it had a lot to do with my ultimate conclusion.

If I were writing my own budget, as I said before, I personally could have cut more domestic spending, I could have added to defense, and I would have voted for that. As a matter of fact, I produced such a budget for the consideration of the committee.

While we did not vote on that up-and-down in each respect, it was obvious that I did not have support by way of a majority for those budgets. As a matter of fact, I did not have even a significant majority of the Republicans on my side of the aisle in committee for that kind of budget.

We are not now writing our own budget, although anyone who has a budget that he considers his or her own, may offer it. That is what we are here for. We have plenty of time.

For anyone who has a comprehensive proposal that needs even a little more time than that prescribed in the Budget Act, I will yield time off the resolution to enable them to describe it thoroughly and for us to discuss it thoroughly. I do not know of any such budgets yet. Frankly, I hope for the good of the process and the good of the Senate that there are full substitutes. I hope someone comes up with one that we can debate in its entirety that perhaps moves substantially in a different direction on all fronts, that perhaps provides higher defense, significantly more in domestic cuts and perhaps less in the way of new revenues.

Let me review for a moment the effect of a sequester. I stated in general terms, under CBO February economic assumptions, defense would be cut 8.6 percent in outlays from where they are this year, the CBO current policy base or 4.8 percent from the current post-1986 sequester of $289.2 billion. Nondefense would have to be cut 10 percent from current policy or 6.2 percent from the current post-sequester level in each and every program and activity not exempt in the budget.

I have ask unanimous consent that a table presenting the comparison versus the sequester for 1987 be printed in the RECORD today.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF BUDGET PLANS—FISCAL YEAR 1987
CHANGE FROM CBO BASELINE

[Outlays in billions of dollars]

| Function | Sequester outlays | SBC budget resolution outlays |
|---|---|---|
| 050: National defense | −15.8 | −4.0 |
| 150: International affairs | −.8 | −.9 |
| 250: General science, space, and technology | −.6 | +.5 |
| 270: Energy | +.5 | −.3 |
| 300: National resources and environment | −1.0 | −.5 |
| 350: Agriculture | −.9 | −.2 |
| 370: Commerce and housing credit | −1.3 | −.4 |
| 400: Transportation | −.4 | +.4 |
| 450: Commerce and regional development | −.8 | −.5 |

COMPARISON OF BUDGET PLANS FISCAL YEAR 1987
CHANGE FROM CBO BASELINE—Continued

[Outlays in billions of dollars]

| Function | Sequester outlays | SBC budget resolution outlays |
|---|---|---|
| 500: Education, training, employment and social services | −1.0 | −.8 |
| 550: Health | −.9 | −.6 |
| 570: Medicare | −3.0 | −2.5 |
| 600: Income security | −3.1 | −2.6 |
| 650: Social Security | −.2 | −.1 |
| 700: Vets benefits and services | −1.0 | −.4 |
| 750: Administration of justice | −.7 | (1) |
| 800: General government | −.4 | −.1 |
| 850: General purpose fiscal assistance | −3.5 | −3.4 |
| 900: Net interest | −.2 | −.4 |
| 920: Allowances | −.4 | +.8 |
| 950: Undisclosed offsetting receipts | −.2 | −4.4 |
| Total spending: | −35.7 | −20.2 |
| Defense | −15.8 | −4.0 |
| Nondefense | −19.9 | −16.2 |
| Total revenues | +3.1 | +18.7 |
| Total deficit | −38.8 | −38.9 |

[1] CBO estimates. Sequester incorporates enactment of COBRA.

Mr. DOMENICI. Mr. President, the comparison is dramatic. In the event of a sequester outlays for defense would be $15.8 billion lower in 1987 than the $269.5 billion projected for this year. This would be the first year-to-year outlay reduction in defense since 1973. Let me also point out that under Gramm-Rudman-Hollings there is no flexibility for manpower or high priority strategic or conventional programs as was permitted in the fiscal year 1986 sequester.

There are few in this body who believe that this is a wise national defense policy or even implementable.

I have the same kind of comparison for nondefense programs. Let me just give you a couple observations. Our civilian and military retirees would be forced to wait 36 months for a cost-of-living adjustment. That is not fair, particularly when you understand that Social Security recipents would receive their cost-of-living adjustment. It would work a real hardship on this particular group of senior citizens.

A veteran GI bill check would be cut by $42 a month. Medicare would pay just 98 cents on the dollar for hospital and physicians' medical bills regardless of the economic status of the recipient.

IRS would be cut by more than 10 percent from this year's level rather than an increase of 12 as contemplated in this budget.

The Social Security Administration would need to reduce its staff by as many as 6,100 workers. I am not sure we would be able to get all the Social Security checks out on time.

There are many more of these. We will debate them at length as we proceed through this process, but this is the kind of devastating action that is clearly not the consensus of Congress. Everyone should know that most of these are what we are voting for if we do nothing.

Let us compare the effect of a sequester to Senate Concurrent Resolution 120 in one important area in which I know there is substantial bipartisan agreement—the FAA. Most in Congress agree that we need to provide adequate resources to improve air safety and security at our Nation's airports. The reported resolution provides the FAA in fiscal year 1987 with $500 million in additional budgetary resources above a freeze to hire additional air traffic controllers and aviation security personnel, and to continue with the planned upgrading of our Air Traffic Control System. In comparison, a sequester would reduce FAA's budget by 6 percent or nearly $300 million below the fiscal year 1986 level, which many feel is substantially low already. A cut of this magnitude would almost surely lead to furloughs of FAA personnel, needlessly imperiling the safety of our Nation's air travelers.

This is just one example. Every Member knows of similar situations in their own State or in their own committee's jurisdiction. Gramm-Rudman-Hollings should not be budgeting by a formula that cuts all programs the same, regardless of their relative importance, it should lead to budgeting by consensus, by policymakers voting to change policy one way or another, picking and choosing as much as a budget resolution permits such to be the case.

There may be some who believe, as I said, that a better economy, lower inflation, and the recently enacted reconciliation bill will do our job for us and that we can achieve the $144 billion without congressional action.

Aside from the fact that in the U.S. Senate and thus in Congress this is a formula for legislative chaos, this would mean that the Congress would defeat by attrition the real intent of Gramm-Rudman-Hollings which was to prompt action and promote us to act rather than create gridlock and inaction.

Moreover, any strategy that depends on the economy making the budget numbers where they want them to be or making them look much, much better, as I indicated a while ago, is a very high risk strategy, at best.

The 1985 "fourth quarter" growth rate and Thursday's report of the first quarter GNP growth for 1986 was well below our current assumption, and the economy currently seems to be either stabilizing or slightly weakening, not strengthening. Housing is strong, but the consumer sector certainly is not. Auto inventories are at historically high levels and the auto companies are announcing progressively larger production cuts. And, as one of many Members who represents an oil producing State, I can tell you that the economy in my State is getting rapidly worse, not better, and such is the case for about 20 percent of the population in States of the Union.

Therefore, I say to my colleagues let us debate the issues. If there is a better mix of policies, let's work to find it. If there are changes we can make to this budget which better reflect the priorities of the Senate, let's make them. But, Mr. President, after we have gone through this debate and have a budget, a budget that undoubtedly will represent compromise among many Members, let us join together to approve a budget resolution here in the Senate this year, and then let's get on quickly with its implementation.

It is my fervent hope that following upon our discussions with the House today, perhaps this action today will cause the House to quickly move their own budget proposal.

I yield the floor at this time.

Mr. CHILES. Mr. President, I want to join the chairman of the Budget Committee in saying I am delighted we are finally starting on the budget resolution. Getting this budget resolution to the floor has been like trying to jump start your car on a winter day. But now that we have got it started, I hope we can keep the engine warm and running until we can pass a budget here.

Without a budget, we have three options: automatic sequester, a congressional sequester, or the ultimate sequester on November 4, with the potential for across-the-board cuts in membership of Congress the people might impose unless we do our work.

The budget we have before us is a bipartisan mix of spending cuts and revenues to achieve the Gramm-Rudman-Hollings target, and avoid a $39 billion sequester.

Now, this, as the chairman has said, is not the budget he would have proposed had the choice been his alone. It is certainly not the budget that I would have proposed had I been able to write the budget on my own. And yet it is one that won a majority of the Republicans on the committee and a majority of the Democratic Members because we realized we did need to meet the targets of Gramm-Rudman-Hollings. We did need to have Congress do its work, and avoid subjecting the budget to the possibility of a sequester.

For fiscal year 1987, military spending is curbed by $4 billion. It adds revenues to reduce the deficit total $18.7 billion. And domestic spending cuts are $14.6 billion. The debt service yields $1.8 billion in savings because of those reduced cuts.

Over 3 years our domestic spending cuts would total $62.1 billion. Defense spending during those same 3 years would decline by $17.8 billion. The deficit reduction included total $73.9 billion over the 3 years.

It is interesting to note that in 1984, President Reagan proposed a contingency tax that would have raised $63 billion in 1986 alone. Our Domenici-Chiles plan puts revenues at 19.6 percent of GNP. President Reagan's 1984 contingency plan would have put revenues at 19.9 percent of GNP.

Democrats would have preferred to see a budget with more emphasis on investments in the future. We talked about that in the committee. That is something we believe is the long-sighted policy. Even in a time of budget constraints we should be protecting our seed corn. We should be investing in those items that are going to bring us back a return many fold in the future. We are talking about items like investments for research and development; we are talking about job training; we are talking about trade promotion; items with a future return. But we were not able to include that in the budget package we have before us.

Let me compare the reported resolution with the impact of sequester. If you look at defense outlays in 1987, there is a reduction of $4 billion. In the Budget Committee resolution, the sequester would be $15.8 billion if that takes place in defense outlays.

If we look at domestic outlays, the resolution cuts them $14.4 billion. The sequester would cut them $18.5 billion. Mr. President, there is a much larger defense hit, many times larger, $4 billion as opposed to $15.8 billion, than there is in domestic spending where the difference in the sequester is only $4 billion.

If you look at the total outlays, a sequester would take $36.5 billion in total outlays and the Senate budget resolution, $20.1 billion.

If we want to compare our budget to the President's budget our Senate Budget Committee proposal over the 3-year total gives us a $64.8 billion greater deficit reduction than the President's budget. If we compare that to the President's request in total outlays we would be $12.1 billion lower than the President's. I think it is interesting to note, Mr. President, that in the President's budget he missed the Gramm-Rudman-Hollings mark by $16 billion in the first year.

So our budget makes that mark in the first year, and in each one of the years to follow.

The bipartisan budget is not a 1-year effort. It recognizes that Gramm-Rudman-Hollings is a 5-year effort to reduce spending and to reach a balanced budget in 5 years. In Committee discussions we decided not to just propose an election year budget, one that would carry us by the election, but would mean massive cutting next year. So we structured our cuts, and we structured this budget to put us on the glide path to make those Gramm-Rudman-Hollings cuts across each of the next years. It reduces the spending burden by 2.5 percent over 3 years, while it raises the tax burden by only 1 percent. So it puts us on that multiyear approach, and I think that is tremendously important.

Four years ago Milton Friedman said that a deficit is a hidden tax. It is a tax in the form of money borrowed from the public, and he is right. The interest on the national debt this year is going to be approximately $148 billion. We see that is roughly the same level as the budget target we are trying to get to.

In parts of the country we have been predicting a major earthquake for a long time. Since it has not happened, a lot of people are betting that it never will. That is the game same we have been playing with the budget, and these tremendous deficits. The difference is we in the Senate, in the Congress, and the administration have an opportunity to do something and prevent that earthquake from happening.

The problem that we have now is not a partisan problem. The solution therefore has to be a bipartisan solution. And the chairman and I have found there is no single part of the budget you can blame for the deficit. It has been caused by defense spending, by domestic spending, and certainly by the reduction of revenues. Everyone has participated in that. Certainly, the Congress has, and certainly the President has. And everyone needs to participate in the solution.

Mr. President, we have to start some place. Today a meeting was held with the leadership of the Senate and the House. We sat down and talked about the budget and where we are going. There were statements like, "Why are you waiting," and "Why don't you go first; we are waiting on you," "Why don't you go first; we can't move because the President has not done this." Somebody has to start. Thank goodness, Mr. President, that now in the Senate as we lay down the budget today, we are beginning that process.

It is just too important for the country to sit back and let things languish. I hope we will work deligently, in a spirit of bipartisanship knowing we have a job to do. Everyone faces these huge deficits, and the threat of a Gramm-Rudman-Hollings sequester. It will be inevitable unless we act. I agree with the statements and figures the chairman of the Budget Committee has given. We must put aside a little bit of our personal preference, and do what is best for the country as a whole, what is best for the Senate as a whole, and I think that is what we embark upon today.

I am glad to see us start. I join with the chairman in trying to put this together. And I ask anybody with amendments or a plan to come to the floor, and let us not wait until the last minute even in this process. We have 50 hours. We should not need 50 hours to have the Senate work its will, but we are going to need to start rather quickly on assessing what amendments there are, and whether there are additional plans. I hope Members on both sides will recognize it is very important that we begin the process and pass a budget.

I challenge the House, now that we are starting the process, for them to begin their process as well. I challenge the President. He needs to participate. He has a responsibility. He has a share of the blame with the rest of us for the size of these deficits. And we need to go forward from there.

Let me characterize the Senate budget resolution in additional detail.

This budget is a reasonable bipartisan compromise. It is a fair and realistic mix of restraint on both domestic and defense spending, matched with revenues to be applied to deficit reduction.

It does not reflect the individual views of each Member of the Senate, or even each member of the Budget Committee. Few measures ever do. Yet, it achieves the Gramm/Rudman/Hollings deficit target of $144 billion for fiscal 1987, and, if approved by the Congress, will avoid the unthinkable imposition of a $39 billion sequester this summer.

This budget gets the job done on the deficit this year and sets us on the path for what must be done in the next 4 years to achieve a balanced budget.

In fiscal year 1987, the budget plan will accomplish the following:

Reduce the deficit to $144 billion as required by Gramm/Rudman/Hollings.

It will restrain military spending $4 billion, acquire $18.7 billion in deficit reduction revenues, and cut domestic spending $14.6 billion after meeting top priority needs for increases.

These changes, matched to $1.8 billion in debt service savings, amount to an overall fiscal year 1987 reduction in the deficit of $39 billion.

A survey of the compromise budget numbers demonstrates the plan's balance.

DOMESTIC SPENDING

Over the 3-year period fiscal year 1987–89, nondefense spending would be reduced $62.1 billion. Yet even with these sharp cuts, full cost-of-living adjustments [COLA] are allowed for Social Security, Federal civilian and military pensions and other indexed programs.

Full funding is restored for strategic petroleum reserve construction, while cuts are scaled-back in SPR funding.

Superfund is increased consistent with the reauthorization legislation.

Rural housing and postal subsidies remain intact.

Money is added for FAA flight safety and Coast Guard drug interdic-

tion efforts, while transit operating grants are reduced 20 percent rather than the 60 percent planned.

Community development block grants are maintained, while urban development action grants are cut 10 percent rather than terminated.

There are no cuts in student loans below the Senate legislation; funding for Job Corps is restored, and community service block grants are cut 10 percent rather than cancelled.

The budget contains $100 million for an infant mortality initiative, and flexibility to allow increases for NIH research grants.

Cuts proposed in Medicare are restrained by $1.5 billion to prevent increased beneficiary costs.

No rent increases are prescribed for low-income housing, while the 50-percent cut proposed in housing units other than for the elderly and handicapped are scaled back to 25-percent.

There are no cuts in veteran's medical care and no increases in VA mortgage loan fees.

Revenue sharing could be continued for 6 months, subject to enactment of authorizing legislation.

And a 3-percent pay raise is allowed for civilian and military employees.

DEFENSE SPENDING

Military spending would decline $17.8 billion over 3 years, recognizing that while our defenses must not be impaired, spending restraint throughout the budget is essential to genuine deficit reduction.

We have rebuilt the Nation's defenses. In 4 years we have doubled the Department of Defense's investment base. During this period we have purchased almost 3,000 combat aircraft, 45 major warships, 201,000 missiles, and 5,200 tanks.

We have created a funding base which allows us to buy five times as many missiles, and twice as many major warships and tanks as we purchased in 1980.

The funding for advanced technical development is 400 percent higher now than it was in 1980, and the funding for strategic programs and intelligence communications has more than doubled.

Nor have we neglected the operations and maintenance accounts. During the past 6 years we have logged more than 45,000 flying hours and almost 9,000 steaming hours.

These are substantial and necessary gains. The spending restraint in this budget will in no way compromise these gains.

REVENUES

The $73.9 billion increase in revenues over the next 3 years reflects the committee's belief that the size of the deficit means we must do all we can to safeguard national prosperity.

For fiscal 1984 the President had proposed a contingency tax plan to bring revenues to 19.9 percent of GNP. Under that plan, taxes would have been increased $63 billion in fiscal 1986 alone. By contrast, the 3-year revenue increase of $73.9 billion included in this compromise will put revenues at 19.6 percent of GNP.

If we hold to the committment made in this budget, we will have embarked on three of the five annual steps mandated in Gramm-Rudman-Hollings plan. We will have staked out a position that shows we can, must, and will meet the deficit targets in each of the next 3 years.

If the Senate approves this budget, it will have kept the pledge made last year to systematically reduce the deficit as the economy's single biggest threat.

As the Senate starts debate on this budget, Senators may find certain elements at variance with their separate preferences. This plan does not ask Senators to abandon their beliefs. What it does ask—indeed, what the Congress asked of itself when it approved the Gramm-Rudman-Hollings plan—is to focus on the overriding goal. And the goal is a growing, deficit-free economy in 5 years.

Republicans on the committee temporarily set aside worthwhile and dearly held affections for certain economic goals. So did the Democrats. But in each case, we acted because whatever we hope to achieve as a Nation in the future depends on how wise and willing we are to make short-term concessions for long-range improvement.

Democrats are troubled that the budget falls short of the ideal investments we believe critical to our future in a competitive world. It does not include the level of investment in science, education, research, medicine, and trade expansion we believe appropriate to a Nation determined to compete.

Democrats see the need for a comprehensive program that matches deficit reduction with a dynamic investment package. Throughout our history, the generations that prospered were preceded by generations that put something aside for the future.

If Democrats alone made the final decisions on this budget, the deficit would still be smaller, but the investments would be there as well.

It is not ours alone to make the choices. But if we fail to adopt a realistic budget, we could face a sequester that gives away all chances to choose.

I hope the Senate will endorse this budget compromise. It is the best hope we have to apply a firm hand to our economic future.

Mr. President, I yield the floor.

USE OF ELECTRONIC CALCULATORS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor during the Senate debate on this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered,.

Mr. DOMENICI. I further ask unanimous consent to obtain floor privileges for the Senate Budget Committee staff, the majority and minority, those members stated on the list which I submit to the Chair for inclusion in the RECORD.

The list of staff members is as follows:

REGULAR FLOOR PRIVILEGES FOR SENATE BUDGET COMMITTEE STAFF

MAJORITY STAFF

Bruce Blanton, Gabriella Carducci, Michael Carozza, Elizabeth Cusick, Charles Flickner,[1] Gail Fosler,[1] Tom Foxwell, Carol Hartwell, Paul Heilig, G. William Hoagland,[1] Bill Hughes, Chuck Konigsberg, Jan Lilja, Deborah Lipman, David Malpass, Carol Baker McGuire,[1] Anne Miller, Margo Miller, Michelle Mrdeza, Sue Nelson,[1] Mary Nell Payne,[1] Virginia Pounds, Cheri Reidy, Austin Smythe, Karla Trujillo, Carolyn Willis, C.G. Nuckols, and Paul Van de Water.

MINORITY STAFF

Dennis Beal, Rick Brandon,[1] James Carr, Barbara Chow, Alan Cohen, Doug Cook, H. Van Daly, Kathy Deignan, Lisa Faulkner, John Hilley, Janet Holtzblatt, Bentley Lipscomb, and Douglas Olin.

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FIFTEEN-MINUTE FLOOR PRIVILEGES FOR BUDGET COMMITTEE STAFF

MAJORITY STAFF

Elizabeth Beall, Tyrone Cole, Peggy Conrad, Kathryn Hamilton Cummings, Mary Jo Gillen, Stefanie Holmberg, Noreen Kelly, Brain Langdon, Laura O'Shea, Debbie Paul, Elizabeth Strader, Tod Tappert, Laura White, Catherine Woods, and Lynne Zeeger.

MINORITY STAFF

Michelle Adams, Janet Blair-Bourbeau, Sharon Jennings, John Moore, and Vanessa Palmer.

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REGULAR FLOOR PRIVILEGES FOR STAFF OF MAJORITY MEMBERS

Tony Coppolino on behalf of Senator Armstrong.

Brian Waidman on behalf of Senator Armstrong.

Guy Clough on behalf of Senator Kassebaum.

Dave Bartel on behalf of Senator Kassebaum.

Dan Meyer on behalf of Senator Boschwitz.

Julie Hasbargen on behalf of Senator Boschwitz.

Monica McGuire on behalf of Senator Hatch.

Hayden Bryan on behalf of Senator Hatch.

David Mehl on behalf of Senator Andrews.

Deanna Marlow on behalf of Senator Andrews.

Grant Loebs on behalf of Senator Symms.

David Sullivan on behalf of Senator Symms.

Kris Kolesnik on behalf of Senator Grassley.

Ken Cunningham on behalf of Senator Grassley.

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[1] Admit without a pass.

Alex Echols on behalf of Senator Kasten.
Dawn Gifford-Martinez on behalf of Senator Kasten.
Dave Juday on behalf of Senator Quayle.
Robert Guttman on behalf of Senator Quayle.
John Wills on behalf of Senator Gorton.
Gwendolyn Van Paasschen on behalf of Senator Gorton.
Reid Detchon on behalf of Senator Danforth.
Susan Schwab on behalf of Senator Danforth.

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REGULAR FLOOR PRIVILEGES FOR STAFF OF MINORITY MEMBERS

Barry Strumpf on behalf of Senator Hollings.
Laura Hudson on behalf of Senator Johnston.
Lance Simmens on behalf of Senator Sasser.
Mark Steitz on behalf of Senator Hart.
James Wagoner on behalf of Senator Metzenbaum.
David Krawitz on behalf of Senator Riegle.
Marc Litt on behalf of Senator Moynihan.
Chris McLean on behalf of Senator Exon.
Mitchel Ostrer on behalf of Senator Lautenberg.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. I yield such time to the distinguished Senator from Washington off the majority leader's time.

The PRESIDING OFFICER. Without objection, the Senator from Washington is recognized.

Mr. GORTON. Mr. President, I thank my friend, the Senator from Florida.

At this point, Mr. President, I would simply like to applaud the thoughtful introductory statements of the chairman of the Senate Budget Committee, and of the distinguished ranking minority member of that committee.

Mr. President, I am pleased that the majority leader has called up Senate Concurrent Resolution 120, the budget resolution for fiscal year 1987. I understand he has undertaken arduous and not entirely fruitful discussions both with the administration and Members of this body in search of broader consensus, and I greatly appreciate his tenacity and commitment.

The Senate Budget Committee, under the astute leadership of my good friend, the Senator from New Mexico, worked hard to pass a budget resolution and did so on March 19. The delay in bring it up for consideration has been far too long, and as a consequence, we have already missed the deadline for final congressional action on the 1987 budget resolution, as specified in the Budget Act.

The causes for this delay are many, some more justifiable than others. But there is no cause sufficient to warrant our reneging on our duty to pass a fair and effective budget resolution which meets the Gramm-Rudman-Hollings deficit targets.

Mr. President, I have served as a Member of the Senate Budget Committee for each of the past 5 years. Each year the debate over budget priorities and the need to reduce Federal budget deficits has been more heated and more difficult than the year preceeding it. Each year we assure our constituents that the deficit is the No. 1 priority before Congress. Each year we make promises about the next year's process.

Last year was no different. Although the Senate got off to a constructive and promising start, thanks to the leadership of the distinguished chairman of the Budget Committee and the majority leader, our efforts were ultimately thwarted under the White House oak tree. In the wake of that defeat, and our profound discomfort over increasing the debt limit yet again, we began making our promises for this year—and as a result, Gramm-Rudman-Hollings became the law of the land. Once again we could go home and tell our constituents that we were let down for such-and-such a reason this year—but wait until next year.

Mr. President, this is next year. We have a responsibility to make good last year's promises, and most importantly of all, this is what our constituents demand.

Passing a budget resolution is essential to avoiding a sequester this year. If we do not pass our budget resolution it will be very difficult to take up appropriations bills. It will be very difficult to take up any reconciliation-type package of spending cuts and tax increases. Does any one of us believe that we will be able to avoid a sequester if we don't pass our appropriations bills and a reconciliation measure? Frankly, Mr. President, I believe that it is already too late to avoid at least a preliminary sequester order, and we in this body ought right now to begin thinking of what we will have to do to vitiate such an order in late September of this year. Does any Member really believe that we will be able to avoid sequester because of favorable performance of the economy? To answer either of these questions "yes," Mr. Chairman, is wishful thinking. No deus ex machina is going to save us from the consequences of our inaction—consequences we ourselves put into law—and no deus ex machina is going to save us from the inevitable effects our failures will have on the budget process itself.

The value of the budget process itself is another reason to pull together and carry out our fiscal responsibility. To fail at the task we have before us now will bring into question whether the Congress of the United States can formulate fiscal policy in a coherent fashion. If we fail, our ability to address the central policy problem of our time will be cast in doubt, and this can only have extremely negative effects on the domestic and international economy.

Mr. President, the vast majority of this body and the other body voted for Gramm-Rudman-Hollings. We all had our own reasons. Now we must live with it. Now it is time to follow through and to vote for the budget cuts and tax increases that will lead us to the limits we ourselves supported. This is our primary obligation—and there will be no excuses.

The budget resolution that is not before us is the result of the hard work, commitment, and resolve of the chairman of the Budget Committee, as well as that of the distinguished ranking member. The budget resolution is as fair as it can be, and addresses the concerns of many of us on both sides of the aisle. It is an impressive achievement and a good starting point for the debate which we now undertake. It by far surpasses the budget originally submitted by the Office of Management and Budget. I have heard a lot of criticism of the Budget Committee's proposal, but it takes a plan to beat a plan, Mr. President, and one thing I have not seen is a superior alternative.

Mr. President, none of us wants to take money away from programs we support, nor does any of us want to raise taxes. I myself have some serious reservations about the implications of this budget resolution for programs such as SBA and WIN, both of which are heavily relied upon in the State of Washington. I hope that these will be addressed during the course of the debate. I am certain my colleagues have similar types of concerns. But we are long on concerns and short of options today, and one option we don't have is to delay the debate any longer.

I urge my colleagues, therefore, to prioritize their concerns and to work together to achieve a budget resolution that reaches the goals we have committed ourselves to in the fairest, most effective, and most expeditious manner; and I commend the resolution reported by the Senate Budget Committee as my guess of where we will end up.

In summary, Mr. President, we are in 1986 on different ground than we have been on the last 5 years for two reasons. The first, is that we are operating pursuant to the Gramm-Rudman-Hollings Balanced Budget Act of 1985. That act restricts the nature of this debate, makes it more wholesome, and more pointed.

We are going to finish with a policy relating to the budget which will result in a deficit of $144 billion for fiscal year 1987, and there are several ways we might do so.

We can do that, in theory at least, by adopting the budget which is proposed by the President but which has

been vigorously and overwhelmingly rejected by most Members of both parties of this body and in the House of Representatives.

We can do it by doing nothing at all, and allowing the automatic sequestration provisions of Gramm-Rudman-Hollings to take effect in the fall of this year. That would be a dereliction of duty on the part of the President, and the Congress of the United States.

Finally, we can come up with a more balanced and more thoughtful proposal than would result from either the passage of the President's proposed budget or the automatic sequestration which is the penalty for failure. Just such a proposal is the resolution of the Senate Budget Committee.

The second way in which this year's debate differs from those of prior years is that this is truly a bipartisan approach to the challenge presented to us by Gramm-Rudman-Hollings, and by the need to reduce budget deficits. The 7 to 5 favorable vote of the majority party and the 6 to 4 favorable vote of the minority party indicate an extremely carefully crafted bipartisan approach to the challenges with which we are faced.

This resolution is both bipartisan and controversial for three fundamental reasons:

The first is that it does include revenues in a greater amount than those recommended by the President.

The second is that it reduces rather significantly the amount of budget authority requested for the Department of Defense and for related programs by the President. Those programs are still more generously treated than all but a tiny handful of domestic programs by this budget resolution.

Third, it falls into this category of both showing bipartisanship and being controversial because, while it reduces a wide range of domestic spending programs rather significantly, in an equally wide range of domestic spending programs, it is more generous than the proposals of the President.

It is, therefore, truly a balanced approach. It is also an effective approach, as it will meet the strictures of the Balanced Budget Act of 1985.

It is a fair approach in that it asks as widely as possibly can be asked all Americans to bear their fair share in meeting the goal of deficit reduction, doing so by asking something from taxpayers, something from those who are primarily concerned with national defense, and something from a wide range of nondefense discretionary and entitlement programs as well.

This proposal has not met, Mr. President, with overwhelming enthusiasm or approbation in the 4 or 5 weeks since it was reported by the Senate Budget Committee. I repeat that many Members and outside commentators have criticized the efforts of the distinguished Senators from New Mexico and from Florida. Remarkably, however, very few have come up with alternative proposals which are effective in reducing budget deficits, and none has come up with alternative proposals which are as thoughtful, as fair, or as balanced in reaching those budget deficit reduction goals.

As a consequence, Mr. President, this is one proposal which looks better as time passes. I wish it could have been debated at an earlier date, that we could have met the requirements of the law that the process be completed by the 15th of April. Meeting that deadline, however, Mr. President, is not as important as doing the job in a responsible fashion.

This budget resolution proposal is responsible, it is effective, it is fair, and it is more and more attractive as we look at the potential alternatives. Mr. President, I commend it to the Members of this body. I hope fervently that it will be adopted and that it will lead to some action in the House of Representatives, which has been notable thus far by its inaction, and that it will thereafter lead to meaningful negotiations with the President resulting in action on the part of the Congress in the spirit and in the letter of the Gramm-Rudman-Hollings Deficit Reduction Act of 1985.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. MCCONNELL). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I first want to thank my friend from Washington not only for his statement before the Senate, which, in his usual manner, is very thoughtful and very provocative. I also want to thank him for his excellent work on the committee, for the diligence that he exercises in matters budgetary and for the knowledge that he has. I suggest that over the next few days, I say to my friend the senior Senator from Washington, it will be up to people like him and many others here who are so concerned about doing nothing to help see to it that we do the right thing for the country here on the Senate floor.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BILLS PLACED ON CALENDAR

S. 2301

Mr. GORTON. Mr. President, I now ask for the second reading of S. 2301.

The PRESIDING OFFICER. The bill will be read the second time by title.

The legislative clerk read as follows:

A bill (S. 2301) to reform procedures for collateral review of criminal judgments, and for other purposes.

Mr. GORTON. Mr. President, I object to further consideration of S. 2301.

The PRESIDING OFFICER. The objection to further consideration at this time has been heard.

The bill will be placed on the calendar.

S. 2302

Mr. GORTON. Mr. President, I ask for the second reading of S. 2302.

The PRESIDING OFFICER. The bill will be read the second time by title.

The legislative clerk read as follows:

A bill (S. 2302) to amend title 18 to limit the application of the exclusionary rule.

Mr. GORTON. Mr. President, I object to further consideration of S. 2302.

The PRESIDING OFFICER. Objection to further consideration at this time has been heard.

The bill will be placed on the calendar.

## COLLECTIVE BARGAINING

Mr. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask unanimous consent that a message from the House on H.R. 281 be read for the first time.

The PRESIDING OFFICER. The bill will be read the first time by title.

The legislative clerk read as follows:

A bill (H.R. 281) to amend the National Labor Relations Act to increase the stability of collective bargaining in the building and construction industry.

Mr. BYRD. Mr. President, I ask that the bill be read the second time.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. Mr. President, I respectfully object.

The PRESIDING OFFICER. Objection is heard. The bill will be held at the desk pending the second reading on the next legislative day.

## MESSAGES FROM THE HOUSE

At 4:47 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1684. An act to declare that the United States holds certain Chilocco Indian School lands in trust for the Kaw, Otoe-Missouria, Pawnee, Ponca, and Tonkawa Indian Tribes of Oklahoma.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 281. An act to amend the National Labor Relations Act to increase the stability of collective bargaining in the building and construction industry.

The message further announced that pursuant to section 11 of Public Law 99-158, the Speaker appoints as members of the Biomedical Ethics Board the following Members on the part of the House: Mr. WAXMAN, Mr. LUKEN, Mr. ROWLAND of Georgia, Mr. GRADISON, Mr. TAUKE, and Mr. BLILEY.

## MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 281. An act to amend the National Labor Relations Act to increase the stability of collective bargaining in the building and construction industry.

## MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2301. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; and

S. 2302. A bill to amend title 18 to limit the application of the exclusionary rule.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 3773. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Science Foundation, and for other purposes (Rept. No. 99-283).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ (for himself and Mr. KENNEDY):

S. 2341. A bill to amend part A of title XVIII of the Social Security Act to freeze the inpatient hospital deductible and to require the Secretary of Health and Human Services to propose a more equitable method of adjusting such deductible; to the Committee on Finance.

By Mr. KASTEN:

S. 2342. A bill to authorize the Secretary of Agriculture to issue a nationwide marketing order applicable to milk and milk products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (for himself and Mr. BRADLEY):

S. 2343. A bill to authorize the provision of foreign assistance for agricultural activities in Nicaragua; to the Committee on Foreign Relations.

By Mr. EXON:

S. 2344. A bill to amend title 10, United States Code, to authorize limited use of commissary stores by members of the Selected Reserve; to the Committee on Armed Services.

By Mr. KENNEDY (for himself, Mr. MOYNIHAN, Mr. KERRY, Mr. SIMON, Mr. DODD, Mr. MATSUNAGA, and Mr. METZENBAUM):

S. 2345. A bill to improve counseling, education, and services relating to acquired immune deficiency syndrome; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 2346. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure safer pesticides and to better protect the public and the environment, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SASSER (for himself, Mr. GORE, Mr. SARBANES, Mr. KENNEDY, Mr. BUMPERS, and Mr. ROCKEFELLER):

S. Res. 385. A resolution to express the sense of the Senate that certain action be taken to end hunger in the United States by 1990; to the Committee on Agriculture, Nutrition, and Forestry.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ (for himself and Mr. KENNEDY):

S. 2341. A bill to amend part A of title XVIII of the Social Security Act to freeze the inpatient hospital deductible and to require the Secretary of Health and Human Services to propose a more equitable method of adjusting such deductible; to the Committee on Finance.

### MEDICARE DEDUCTIBLE AND COPAYMENT REFORM ACT

● Mr. HEINZ. Mr. President, the Health Care Financing Administration has once again sent a shock to this Nation's 31 million aged and disabled Medicare beneficiaries. HCFA now estimates that on January 1, 1987, the part A deductible—the fee paid out of pocket by Medicare beneficiaries for their first day of hospitalization—will rise an estimated $80, from $492 to $572. This is another whopping 16-percent increase, coming on the back of last year's unprecedented 23-percent jump. While Medicare is saving billions of dollars with each successive year that hospitals are under the prospective payment system, Medicare beneficiaries are being asked to dig ever deeper into their wallets to pay for needed health care.

Today I am introducing, along with my colleague, Senator KENNEDY, legislation that will freeze the part A deductible until Congress can enact a change in the outdated formula which drives these enormous annual increases. In addition, the Secretary of HHS will be required to submit to Congress no later than September 15, 1986 one or more legislative proposals for modifying the way in which the part A deductible is calculated so that the adjustment is more nearly comparable to the annual adjustment made to the DRG payments to hospitals. The intent of my bill is to prevent any further increases in the part A deductible until HHS has had an opportunity to advise Congress on ways to replace the existing outmoded formula with one that is more appropriate for calculating first day hospital costs under the prospective payment system. However, no increase will be possible until Congress has enacted such a reform.

Mr. President, there is mounting evidence that Medicare's prospective payment system is resulting in substantial cost shifting onto beneficiaries. In its February, 1986 report to Congress, the Prospective Payment Assessment Commission [ProPAC], indicated that over half of last year's increase in the part A deductible was due to decreases in the average length-of-stay attributed to prospective payment. It also estimated that this factor alone shifted $550 million onto Medicare beneficiaries. In its April 1, 1986 report to the Secretary of HHS, ProPAC concluded that the current formula used to calculate the deductible should be revised so that "it is more consistent with the annual per-case [DRG] increase in Medicare payments to hospitals."

This new wave of cost shifting is especially painful for older Americans living on the margin. The Congressional Budget Office has estimated that about one-fifth of elderly individuals have no protection other than Medicare against health care costs. Nearly 30 percent of the elderly with family incomes under $9,000 have neither private coverage nor Medicaid eligibility. How can we expect these low-income Americans to shoulder another $80 in out-of-pocket costs each time they are hospitalized?

Unfortunately, the added beneficiary cost-sharing that results from increases in the part A deductible does not stop at the hospital door. This is because the copayment for skilled nursing care is directly linked to the part A deductible. This year older Americans needing extended skilled nursing care—21 days or more—will pay $61.50 per day. This amount exceeds the private pay costs for nursing home care in many areas of the country. If the deductible is allowed to go up another 16 percent, beneficiaries

will have to pay $71.50 for every day beyond 20 that they require skilled nursing care. We are placing beneficiaries in an ever-squeezing vise of higher costs on the front end of a hospital stay and higher out-of-pocket costs for post-hospital care.

Mr. President, I urge my colleagues to join us in cosponsoring this important protection against rising costs for this Nation's elderly and disabled populations. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2341

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. FREEZE IN INPATIENT HOSPITAL DEDUCTIBLE AND COPAYMENTS FOR EXTENDED CARE SERVICES.

Section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) is amended to read as follows:

"(b) The inpatient hospital deductible which shall be applicable for purposes of subsection (a) shall be $492 in the case of any spell of illness beginning after 1985.".

SEC. 2 SUBMISSION OF LEGISLATIVE PROPOSALS.

Not later than September 15, 1986, the Secretary of Health and Human Services shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives one or more legislative proposals for modifying the manner in the annual adjustment made in the inpatient hospital deductible imposed by section 1813(b) of the Social Security Act in order to make such adjustment more nearly comparable to the annual adjustment made with respect to DRG prospective payment rates under section 1886 of such Act.●

● Mr. KENNEDY. Mr. President, I am pleased to join my colleague, Senator HEINZ, in introducing this bill to bring fairer treatment to our senior citizens.

Last year senior citizens were shocked to learn that the Medicare hospital deductible—the amount Medicare beneficiaries must pay out of their own pocket every time they enter the hospital—would increase $92 on January 1, 1986. This whopping 23-percent increase—the largest dollar increase in the history of the Medicare Program—pushed the total deductible to $492 dollars, an amount far in excess of the deductibles typical of private insurance policies.

Now insult has been added to injury. In the last few days, HHS has announced that the deductible for 1987 is likely to rise an additional $80, to a staggering $572. This adds up to a 43-percent increase over the 2 years 1986-87. If the projected 1987 increase is put into effect, the deductible will have grown more over this 2-year period than it did in the first 15 years of the Medicare Program's existence.

The exorbitant increase in the hospital deductible was not intended by anyone. It is an unintended consequence of the new Medicare prospective payment system and of Congress' failure to modify the method of calculating the deductible to reflect the new payment system.

Since the beginning of the Medicare Program, the deductible has been calculated on the basis of the cost of an average day of care.

Increases in the deductible were supposed to reflect increases in the cost to Medicare of a typical hospitalization, and as long as Medicare paid hospitals for services to Medicare beneficiaries on a daily cost basis, the annual increases in the deductible were reasonably fair.

But, today Medicare no longer pays for hospital care on a daily cost basis. Beginning with legislation enacted in 1982, Medicare began to pay a fixed price—set in advance—for each Medicare admission. The fixed price varied depending on the diagnosis that was treated, but the key feature of this prospective payment system was that the price was set in advance and was based on admissions and diagnosis, not days of care.

The prospective payment system has reaped enormous savings for the Federal budget and has had a major impact in slowing the growth in health care costs. In the next 5 years alone, propsective payment will reduce the deficit in excess of $40 billion.

But, while prospective payment has brought relief to the Federal budget, it has created heavy additional costs for senior citizens already burdened with high health care expenses. Prospective payment encourages hospitals to economize by reducing length of stay. Between 1982 and 1985, average hospitalization for Medicare beneficiaries dropped from 10.24 days to a projected 8.75 days. Between 1983 and 1984 alone, length of stay dropped almost a full day, from 9.84 to 9.05.

The result of this drop in length of stay—combined with the fact that hospital occupancy rates are now at historic lows—has been that hospitals' costs are concentrated in fewer days of care. The rate of increase in total costs and costs per admission has slowed dramatically, while the costs of care per day have soared.

Senator HEINZ and I introduced an amendment to the continuing resolution last year that was unanimously approved on a voice vote. That amendment expressed the sense of the Senate that the Committee on Finance shall report legislation no later than April 15, 1986, which will reform the calculation of the annual increase of such deductible so that it is more consistent with annual increases in Medicare payments to hospitals. It is further the sense of the Senate that any reforms shall be retroactive to January 1, 1986.

April 15 has now come and gone, and our senior citizens have received no relief. I believe it is the responsibility of the Congress to act now before further damage is done.

The legislation I am introducing today will freeze the hospital deductible at its current level. If the legislation is enacted, no further increases in the hospital deductible could go into effect until the administration has recommended and the Congress has approved legislation reforming the calculation of the deductible so that it is more consistent with actual increases in per admission payments under Medicare.

Our senior citizens deserve to have a fairly calculated deductible. Congress' failure to act when the prospective payment system was first put into law can be excused on the grounds of ignorance; no such excuse is possible now.

I urge prompt passage of this legislation.●

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By Mr. DURENBERGER (for himself and Mr. BRADLEY):

S. 2343. A bill to authorize the provision of foreign assistance for agricultural activities in Nicaragua; to the Committee on Foreign Relations.

AGRICULTURAL ACTIVITIES IN NICARAGUA

Mr. DURENBERGER. Mr. President, I rise today with my colleague from New Jersey [Senator BRADLEY] to propose legislation which would seek to support Nicaragua's embattled Catholic Church. To those who have closely followed events in Nicaragua, it is clear that the Sandinista regime regards the Nicaraguan Catholic Church as an adversary and as its most import competitor for the support fo the Nicaraguan people.

The Episcopal Conference of Nicaraguan Bishops, under the courageous leadership of Cardinal Miguel Obando y Bravo, has consistently sought to protect the religious rights and personal freedoms of all Nicaraguans. The policies of the Sandinista regime, on the other hand, have been designed to undermine the Catholic Church's traditional influence in Nicaraguan society. As with the other remaining democratic elements in Nicaragua, Sandinista policy has sought to divide and weaken the Catholic Church. These antichurch policies have intensified since the declaration of a state of emergency by the Sandinista government on October 15 of last year. Examples of these policies are numerous and varied:

The seizure of COPROSA, the church's social services agency; the expulsion of foreign priests and nuns; the conscription of seminarians; the banning of the church newspaper, Iglesia; the censorship of Radio Catolica's programs, including masses and other religious events, and its closure on January 1, 1986; numerous instances of harassment, arrest, and mis-

treatment of Catholic clergymen, including Cardinal Obando.

Despite the hostility of the Sandinista regime, the Nicaraguan Catholic Church has consistently urged peace, national reconciliation, and internal dialog among all of the parties to the Nicaraguan civil conflict.

The issuance of a pastoral letter on April 6 by the Nicaraguan Catholic bishops is only the most recent instance of efforts by the Catholic Church to end the bloodletting in Nicaragua and to act as an agent of peace and reconciliation within Nicaragua. This letter reiterates the themes which were stressed in an earlier Easter pastoral letter on reconciliation issued by the Nicaraguan bishops in 1984.

I believe that it is important that Americans recognize that the Nicaragaun Catholic Church is attempting to play a constructive role to resolve the conflict in Nicaragua peacefully and to establish the bases for a more just and democratic society in Nicaragua. The April 6 pastoral letter stresses three themes: First, the Catholic Church is the agent of peace in Nicaragua; second, the church seeks ecclesiastical reconciliation, particularly among those elements who have affiliated themselves with the so-called Popular Church; the third, the church seeks political reconciliation of all Nicaraguans through dialog. Several passages of this letter are especially worth noting:

Why is the church, tested from within, also being tested from without? It is sought to muzzle it and hobble it in order to subjugate it in the midst of applause that the institutionalized lie and half-truths evoke from the unwary. It is accused of remaining silent while it is silenced . . . . It is asked to raise its voice in favor of peace, but when it seeks it via reconciliation and dialogue, it is slandered and fought, since what is sought is not a moral orientation, but the manipulation of a pronouncement. When it does make itself heard, those who would like to dictate its words criticize it, not for what it said but for what it supposedly should have said. It is accused of making politics, while simultaneously it is demanded that it pronounce upon the most delicate matters of national and international politics. In this situation, we insist that our Church opt only for man himself, for all Nicaraguans.

And, on the issues of national reconciliation and dialog, the pastoral letter states:

The church in Nicaragua wants to be the symbol and witness that unity among Nicaraguans is possible and wants, besides, to be an efficacious instrument to achieve it . . . . We are conscious that in order to achieve national reconciliation it will not be enough to have simple arrangements . . . . We are convinced, likewise, that reconciliation will only be possible through dialogue. This dialogue of which we speak is not a truce tactic in order to strengthen positions necessary to the prosecution of the fight, but the sincere effort to respond to anguish, pain, exhaustion, the fatigue of so many who long for peace. So many who want to live, to rise from the ashes, to seek the warmth of children's smiles, far from violence and in a climate of democratic life together.

This letter should serve as a challenge to all of us, Democrats and Republicans, conservatives and liberals, that we can do something positive and constructive to strengthen democracy inside Nicaragua and to assist the Nicaraguan campesino who simply wants to see an end to a seemingly endless war. It also challenges the Sandinista leadership, which has been so resistant to honest dialog with the Catholic Church and with the other elements of the internal democratic opposition.

Senator BRADLEY and I have therefore chosen to propose legislation which would authorize the provision of up to $10 million in foreign assistance for agricultural activities in Nicaragua. This money would be specifically channeled to the Episcopal Conference of the Roman Catholic Bishops of Nicaragua. Some Members of this body may recall a similar proposal which was offered by Senators PERCY and PELL during the 98th Congress to assist agricultural development in Poland. This Polish proposal, of which I was a cosponsor, was the product of lengthy negotiations between the Polish Government and the Polish Catholic Church. These negotiations now appear to be on the verge of success and reflect the willingness of both parties to consider the best interests of the Polish people.

It is with this precedent in mind that Senator BRADLEY and I have drafted this legislation. This approach is certainly unorthdox, and an internal negotiation process with the Nicaraguan Catholic Church may be rejected out-of-hand by the Sandinista government. But I see no reason why we should not put the Sandinistas to the test.

Briefly, the purpose of this expenditure would be to strengthen private agriculture in Nicaragua, enhance the church's role in the countryside, and increase food supplies. The program would not supplant current Nicaraguan Government domestic or foreign expenditures on agriculture. As with the Polish proposal, a private, multinational foundation could be established to administer the management of the funds. Pilot projects developed in cooperation with the governments and the churches of the United States, Western Europe and Latin America would test the effectiveness and the autonomy of this proposed foundation.

Several safeguards could be established to maintain the autonomy of the foundation. First, the foundation would control the rate at which goods purchased in the West would enter Nicaragua. Second, all imported goods would remain solely the property of the foundation until sold. Third, the foundation alone would determine to whom it sold the goods. Fourth, monitoring units would be established on the level of local communes and cooperatives, utilizing local parish structures, to ensure effective church oversight at the local level. The church could terminate or suspend the program at any time that it deemed such action necessary because of interference by the Sandinista government.

Mr. President, it is my hope that this proposal can attract wide bipartisan support as well as that of the Reagan administration. It is my view that it presents an opportunity to strengthen democratic and private sector elements within Nicaragua at a relatively low cost. At the same time, it offers a positive alternative which can attract the financial and political support of our democratic allies in Europe and Latin America and of the international religious community.

Mr. President, I ask unanimous consent that a copy of this legislation appear in the RECORD along with two unclassified cables from the U.S. Embassy in Managua, Nicaragua. The first of these cables is a summary of the Nicaraguan Catholic Bishops' Pastoral Letter of April 6, while the second cable offers the Embassy's assessment of the Sandinista government's agricultural policies.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 2343

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law, up to $10,000,000 of the amount made available to carry out the purposes of chapter 4 of part II of the Foreign Assistance Act of 1961 may be made available for agricultural activities in Nicaragua which are managed by the Episcopal Conference of the Roman Catholic Bishops of Nicaragua.

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DEPARTMENT OF STATE

Subject: Nicaraguan Catholic Bishops Issued Pastoral Letter on National Reconciliation.

1. On April 6, the Nicaraguan Catholic Bishops issued a pastoral letter "on the eucharist, source of unity and reconciliation". Addressed to priests, deacons, monks, nuns, Catholics and "men of good will", the letter urged both spiritual reconciliation of religious in Nicaragua and political reconciliation of all Nicaraguans through dialogue. It strongly denounced the "popular church" and opined that "all forms" of foreign aid "that lead to destruction, pain and the death of our families . . . are condemnable".

2. There follows an informal translation of excerpts from the pastoral letter, the Spanish text of which will be sent to ARA/CEN and S/LPD by Septel:

(Begin translation:)

THE CHURCH, SYMBOL AND INSTRUMENT OF UNITY AND RECONCILIATION

The church in Nicaragua wants to be the symbol and witness that unity among Nicaraguans is possible and wants, besides, to be an efficacious instrument to achieve it. We

know that throughout history the church has encountered obstacles in the realization of this mission which are useless to avoid. His Holiness John Paul II, on the occasion of the last Purisima celebration, told us: "You know well, beloved bishops, that specifically to you has been given the ministry and the word of reconciliation (2 Cor. 5, 18 and 19). You, beloved brothers, are particularly conscious of this duty as you have demonstrated, sending to the Catholics of Nicaragua, on April 22, 1984, at Easter, a pastoral letter on reconciliation. I am sure that you will continue undertaking with confident perseverance the mission that Christ has given you."

We are conscious that in order to achieve national reconciliation, it will not be enough to have "simple arrangements—rather, authentic transformations that integrate all the people in the management of their own destiny" are necessary—and that "those rights and aspirations that we want to defend or exalt are of no political group, but of all men and specifically of our Nicaraguan brothers. . . . It is that specific man, our Nicaraguan brother, who is the object of our concern" (see pastoral letter of the Nicaraguan episcopate: "on the principles that direct the political activity of all the church as such." March 19, 1972).

We are convinced, likewise, that reconciliation will only be possible through dialogue. This dialogue of which we speak "is not a truce tactic in order to strengthen positions necessary to the prosecution of the fight, but the sincere effort to respond to anguish, pain, exhaustion, the fatigue of so many who long for peace. So many who want to live, to rise from ashes, to seek the warmth of children's smiles, far from terror and in a climate of democratic life together. . . . It is urgent to bury the violence—enough of violence!—which has cost so many victims in this and other nations" (see John Paul II, visit to San Salvador, Central America, March 6, 1983).

Today we want to inspire Nicaraguans to assume the responsibility which each one has to make possible reconciliation, unity and peace in Nicaragua.

SPIRITUAL UNITY AND RECONCILIATION

*A church lives*

We recognize with joy the firmness and depth of the faith of our people in general, who remain faithful to their beliefs and religious traditions, who cultivate the love of the eucharist and the Holy Virgin, who acknowledge and accept their legitimate pastors with proven loyalty toward them and toward the person of the Holy Father, in spite of institutionalized ideological attacks and of the scandalous disobedience of some ecclesiastics.

We live in a privileged time in which the Holy Spirit is renewing the church; it strengthens and prepares it for the fulfillment of its universal mission. We verify an increase in priestly and religious vocations, and the existence of a laity which seeks to live its Christianity with greater fullness and responsibility. We recognize an intense life of prayer and the strengthening of many Catholics who testify to their faith and are even disposed to give their lives for Christ and for their church.

For the love and compassion that the Lord has shed on Nicaragua, we raise our thanksgiving to God, and we encourage the faithful to remain strong in the faith.

There coexists, together with this reality nevertheless, a sector of the church, object of our pastoral concern, to which we also direct our call to reconciliation and unity.

*A church put to the test*

A belligerent group, priests, monks, nuns, and laymen of diverse nationalities, insisting on belonging to the Catholic Church, in reality work actively with their deeds to undermine the same church, collaborating in the destruction of the foundations on which are founded unity in the faith and in the body of Christ.

To this group is added a nucleus of persons, frequently sincere and well-intentioned, but no less mistaken. Together they are known as the "popular church." The Holy Father has pronounced repeatedly concerning its nature and function, pointing out its errors and condemning its positions.

*Who makes up this so-called "popular church"*

(A) They manipulate the fundamental truths of our faith, arrogating the right to reinterpret and even rewrite the word of God to conform it to their own ideology and use it for their own ends. But, as the Document of Puebla says: "All ideology is partial since no particular group can claim to identify its aspirations with those of the global society" (535). "Ideologies themselves have the tendency to absolutize the interests that they defend, the vision that they propose, and the strategy that they promote. In such case, they are transformed into true 'lay religions.' They are presented as an ultimate explanation sufficient to all, and so is constructed a new idol, from which is accepted, at times without realizing, a totalitarian and obligatory character. In this perspective it should not be strange that ideologies try to use people and institutions to serve the efficacious achievement of their ends. This is the ambiguous and negative side of ideologies" (536).

(B) They try to undermine the unity in the body (of the church), challenging the constituted authorities of the church with acts and postures of frank rebellion, and they protest against the most elemental measures of ecclesiastical discipline.

(C) They try to diminish or remove the confidence and loyalty of the people toward their priests and bishops, toward the church as an institution, and toward the person of the Holy Father, asserting or spreading by various media strongly financed by anti-church groups, or by media which the state itself puts at their disposition, accusations and calumnies of all kinds. With special persistence, they try to present the bishops as persecutors of ecclesiastics and as allies, followers, and supporters of imperialist plans of the United States, and the Holy Father as executor of said plans.

(D) They try to divide the church, its bosom the "class warfare" of Marxist ideology. Therefore, they try to identify the church with the interests of the powerful, while they reserve for themselves the title of "church of the poor." Nevertheless, we note that they applauded the expulsion of priests who gave great parts of their lives to the service and direct coexistence with the most poor and dispossessed.

*Ecclesiastical reconciliation*

Without any exclusion, we invite these brothers to reconsider their errors and postures, to revise their loyalties and to mend their ways, so that that which today is fragmentation and alienation avoids becoming, one day, total division and schism.

Likewise, we urge all the people of God, priests, monks, nuns, and laymen to congregate in unity with their pastors to celebrate the eucharist and express their communion and love, abhorring negative or indifferent postures that strike at the unity of the church of Christ.

NATIONAL UNITY AND RECONCILIATION

*The church opts for man*

Why is the church, tested from within, also being tested from without? It is sought to muzzle it and hobble it in order to subjugate it in the midst of the applause that the institutionalized lie and half truths evoke from the unwary. It is accused of remaining silent while it is silenced, depriving it of its only radio station, and all news of aggressions suffered and all words of defense are censored from the communications media. It is asked to raise its voice in favor of peace, but when it seeks it via reconciliation and dialogue it is slandered and fought, since what is sought is not a moral orientation, but the manipulation of a pronouncement. When it does make itself heard, those who would like to dictate its words criticize it, not for what it said but for what it supposedly should have said. It is accused of making politics, while simultaneously it is demanded that it pronounce upon the most delicate matters of national and international politics. In this situation, we insist that our church opt only for man himself, for all Nicaraguans.

*The church, agent of peace*

It is in favor of this man, and because "we cannot hush that which we have seen and heard" (Acts 3.20), that we lift up our voice to say: enough now, the blood and the death! The blood spilled of so many Nicaraguans shouts to Heaven!

It is urgent and final that Nicaraguans, free of foreign meddling or ideologies, find a way out of the conflictive situation that our fatherland lives.

Today, we reaffirm with renewed emphasis that which already in 1984 we said in our pastoral letter of April 22, Easter. "Foreign powers take advantage of our situation to foment economic exploitation and ideological exploitation. They look at us as objects of support to their power without respect to our person, to our history, to our culture and our right to decide our own destiny. Consequently, the majority of the Nicaraguan people live fearful of the present and insecure in their future, experience deep frustration, cry for peace and liberty; but their voices are not heard, extinguished by the bellicose propaganda of one or another party."

We judge that all forms of aid, what ever be their source, that lead to destruction, pain and the death of our families, or to hate and division among Nicaraguans are condemnable. To opt for the annihilation of the enemy as the only road to peace is to opt inevitably for war. The church is the first to want peace and seeks to build it by means of conversion and penitence.

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TELEGRAM

1. Summary and introduction: The GON reports that Nicaraguan peasants are "clamoring" for land. Pictures of noisy peasant rallies appear on the front page of pro-government newspapers. Private landholders are called in for conferences and, in some cases, actually confiscated. But how much land is really changing hands? Are there peasants who are getting new titles? Are peasants really demanding land? The answers to these and other questions are found in a study of the GON's own agrarian reform statistics, such as they are. The final conclusions about how much land is available depend largely upon how hard you

think people ought to work. The revelation that the GON is not doing what it says it is doing will not come as much of a surprise to anyone. However, the twist in the plot is that 1986 may be a year of real agrarian reform with big confiscations and big land giveways as the GON faces some new challenges and uses agrarian reform as the solution. End summary and introduction.

2. The opposition organization Cosep? (Superior Council of Private Enterprise) has issued an analysis of land use in Nicaragua based on the GON's official figures. (Comment: any figures issued by the GON are naturally suspect, but Econoff has confirmed the consistency if not the validity of these figures by reviewing numerous government publications, by talking to GON and opposition figures, and by going back and adding up numbers from countless newspaper clippings on agrarian reform. End comment) Using these official statistics, Cosep concludes that the GON does not have to confiscate private land in order to supply its Campesino allies.

3. Nicaragua has a total of 16.8 million manzanas of land (1 manzana equals 1.7 acres; that figure includes land of all types not covered by water or occupied by cities. About 10.0 million manzanas are covered by forests, 3.5 million manzanas are devoted to cattle raising, 1.0 manzanas are under cultivation with traditional and export crops, 284,198 manzanas are used to grow other crops such as coconut and palm oil trees, and 1.67 million manzanas are unusable. Therefore, of the 16.8 million manzanas total which make up the territory of Nicaragua, only about 4.7 million are actually in use for productive activities. Ownership of the land is broken down as follows: 52 percent is considered in the "public domain", 38 percent is in private hands, 9 percent is organized into cooperatives, and 9 percent is owned directly by the state. Cosep groups the public lands and the state-owned lands together and asserts that the GON controls 61 percent of the total land area in Nicaragua.

4. The following table shows how the ownership of the land has changed between 1978 and 1985.

[All figures are in thousands of manzanas]

| Sector | 1978 | 1983 | 1984 | 1985 |
|---|---|---|---|---|
| Individuals | 8,073.0 | 5,232.0 | 5,125.2 | 4,983.2 |
| More than 500 mzs | 2,920.0 | 1,132.5 | 1,025.7 | 883.7 |
| 200 to 500 mzs | 1,311.0 | 1,021.0 | 1,021.0 | 1,021.0 |
| 50 to 200 mzs | 2,431.0 | 2,391.0 | 2,391.0 | 2,391.0 |
| 10 to 50 mzs | 1,241.0 | 560.5 | 560.5 | 560.5 |
| Less than 10 mzs | 170.0 | 127.0 | 127.0 | 127.0 |
| Cooperatives | | 1,183.5 | 1,430.9 | 1,540.4 |
| Credit and service (CCS) | | 804.3 | 804.3 | 804.3 |
| Production co-ops (CAPS) | | 379.3 | 626.6 | 736.1 |
| State owned lands (APP) | | 1,657.4 | 1,516.9 | 1,549.4 |
| Subtotal | 8,073.0 | 8,073.0 | 8,073.0 | 8,073.0 |
| Public lands | 8,758.7 | 8,758.7 | 8,758.7 | 8,758.7 |
| Total | 16,831.7 | 16,831.7 | 16,831.7 | 16,831.7 |

Source: Midinra.

Thus, in seven years, 18 percent of Nicaragua's total territory has gone from private to public ownership. Individuals now own 29.5 percent of the land as opposed to the 48 percent owned in 1975. Owners of the very smallest farms lost 25 percent of their land: Owners of 10–50 manzana farms lost 55 percent of their land: Owners of the largest farms and ranches (over 500 manzanas) were the biggest losers. The Government taking 70 percent of their total pre-revolution holdings. The GON has opened no new territory as part of its Agrarian reform program. The 8.76 million acres untouched before 1979, mostly tropical forest, remain part of the public domain. Of the 3 million manzanas "lost" by individuals, 50 percent is in the hands of the state and 50 percent now belongs to cooperatives. (Comment: CCS cooperatives did exist before the revolution under the auspices of such groups as the Nicaraguan Development Foundation—FUNDE. Cosep and Midinra both note this fact and state that no figures about the total acreage devoted to these cooperatives is available for the years before 1979. The CCS cooperatives are otherwise private landholders who have joined together for purposes of obtaining credit and for ease of cultivation. Theirs is an economic, rather than a political association. Almost all of the 1.5 million manzanas owned by the GON was seized from the Somoza family and its allies in the immediate post-triumph period. End comment)

5. Cosep maintains that the GON could and should make better use of the land already opened to civilization and could and should open "public" territory to land hungry campesinos. The Cosep study does not discuss the issue of the fertility of these virgin lands or their accessibility. The implication is that anyone who really wants land should be willing to work for it and work hard to farm it. Some of these forest lands no doubt could be cleared and farmed without too much difficulty, especially if the GON made the initial investments. The GON will contend, however, that the population pressures are in other areas of the country. The government has actually offered large landholders in the Carazo area south of Managua huge tracts of land in the north as compensation for property confiscated in the more populous—and fertile—regions. These large landholders, for a variety of political and economic reasons, have turned down the offers.

6. The study does point up the fact that the GON has taken land from the small farmer as well as the large. Despite the limitations imposed by the Agrarian reform law of 1981—protecting farms under 500 manzanas on the west coast and under 1,000 manzanas in the rest of the country—the GON has apparently felt free to take well over 30 percent of the land lost by individuals between 1978 and 1985 from the small landholders, those owning fewer than 500 manzanas. Although the GON would claim that these were lands managed inefficiently or abandoned entirely and therefore subject to confiscation, the statistics rub some of the shine off the "take from the rich to give to the poor" policy.

7. The GON says that it has redistributed a total of 4.0 million manzanas since 1979; in 1985 alone it claims to have given away 646 thousand manzanas. Midinra figures show that in 1985 the land was given away as follows:

| *Recipient* | *Manzanas* |
|---|---|
| Cooperatives | 164,000 |
| Individuals | 62,000 |
| Indigenous communities | 70,000 |
| "Precaristas" | 350,000 |
| Total | 646,000 |

(Comment: "Precaristas" are individual farmers who receive titles to land they already occupy. In most cases, they are people who live in more remote regions and who have farmed the land for many years and consider themselves the owners of the land, without ever having clear legal title to it. End comment). Of the 4.0 million manzanas the GON claimed to have distributed by the end of 1985, 1.5 million manzanas are owned by the government. 1.5 million manzanas have been formed into cooperatives and 1.0 million manzanas have been given to individuals. The midinra figures cited in the table in paragraph 4 show that individuals overall lost only about 3.0 million manzanas. Therefore roughly 1.0 million manzanas appears to have just changed hands—passed from one individual farmer to another.

8. However, the table also shows a very interesting phenomenon: There was no variation in total acreage held by individuals with farms of 500 manzanas or less between 1983 and 1985. That is, after the initial spate of confiscations, holdings by small farmers have not decreased. Nor have they increased or varied in size. Every 10 manzana farm confiscated must have been given as a 10 manzana unit. Every 50 manzana farm confiscated must have been given as a 50 manzana unit. Distributing land in such a manner would seem to defeat the whole purpose of land reform. Thus, the table's figures seem to support the conclusion that most of the land is going to those campesinos who already possess it "precaristas". The data in paragraph seven also confirm that assumption; 54 percent of the land the GON claims to have distributed in 1985 went to "precaristas".

9. The table also shows that CAP cooperatives received all of the land taken from individuals between 1983 and 1985 along with some land originally included in state-owned APPS. The CAP cooperatives are formed by and closely affiliated politically with the GON. Even when it hands out titles under individual names, the agrarian reform law allows the GON to require farmers to participate in a particular cooperative and cultivate certain crops in order to retain title. Cooperatives get credit preference at the National Development Bank and first claim after the APPS on scarce resources like seed, insecticides, and fertilizers. Cooperative members usually are also required to participate in rural political activities. The CAP cooperative structure is regarded by the private sector as another manifestation of government land ownership and is a potent political playing card in the GON hand. The CCS cooperatives, which tend to be less closely connected to the GON, received no new lands after 1983.

10. GON publicity surrounding the agrarian reform issue has taken on a sort of pattern. Peasants are said to be "clamoring" for land in one region or another, new reports appear about the crowding in certain areas, and then the announcement comes that 10 thousand manzanas or so have been distributed, "benefiting" a certain number of families. Chontales (region V) is the area most often in the news in recent months. On February 26, FSLN Daily Barricada reported that over 9 thousand manzanas had been given to 100 families in the Boaco area as part of the "ongoing response to the urgent demands of the thousands of campesinos who have no land to produce." The article went on to add that another 12,000 peasants in the region are still without land. Region V is a strategically important zone (REF. A), perhaps for military, as much as economic reasons, the GON has chosen to concentrate its agrarian reform attentions there. In recent giveaways, campesinos in region V have received AK-47s along with their property titles (REF. B). Many of the clamoring peasants shown in the news have waved placards bearing the GON's own slogan—"Land and a Rifle". Land to "pre-

caristas" may also be considered part of a strategic policy as many of these remote tracts are in the war zones and any move to consolidate pro-government feelings in these regions makes good military sense. Whether these peasants are actually pressuring for land or not does not matter to the GON; security is the issue. There is no doubt that some clamoring is going on in the heavily populated region of Carazo. Although when cosep leader Enrique Bolanos had his cotton farm and gin confiscated in June 1985, there were rumors that the GON had had trouble finding enough names for all the titles it wanted to hand out. The biggest noise makers are probably the peasants who have left the fields and come to Managua. Some displaced by the war, some forcibly removed by the GON from the "Free-Fire" Zones it created in the north, and some simply unable to make ends meet farming, these people have all flocked to the capital and are creating serious strain on the city's resources (REF. C).

11. "Benefit" is a favorite GON term that is used whenever there is a discussion of land reform. However, families that "benefit" do not necessarily receive titles to land. When the GON says that 23 thousand families have benefited under the agrarian reform plan of 1985, it does not mean to say—and it never does clearly say—that 23 thousand titles have been distributed for 23 manzanas each. These benefiting families are not even necessarily members of cooperatives. In 1984, Midinra figures showed a total of 899 CAP cooperatives in Nicaragua, with 18,253 members. However, Midinra also claimed that 38,000 families had benefited from the formation of those cooperatives. The GON says that, as of the end of 1985, it has distributed 1.0 million manzanas to individual title holders, benefiting 49,000 families. In the five years of agrarian reform since 1981, it says it has distributed a total of 2.5 million manzanas (4.0 million minus the 1.5 million in APP) to benefit 86,565 families. Dividing the families into the land yields an average of between 20 and 30 manzanas per family. Using the 1984 figures cited above and the 626.6 thousand manzanas in CAP cooperatives given in the table for 1984, yields an average of 35 manzanas per cooperative family. Yet private sector sources, together with the few titles emboffs have had the opportunity to examine, indicate that the average individual title recipient is getting three to ten manzanas. Therefore, the cooperative average should be much larger than the overall norm. This confusing data makes it difficult to determine just how many families have "benefited" by actually receiving titles.

12. Thus, despite the extensive propaganda surrounding the agrarian reform program, the GON is not telling the whole story. Most of the land confiscated since 1979 has gone to the state or to cooperatives which are essentially state-controlled. Furthermore, the much-touted program of distributing titles to individuals does not represent a major restructuring of the landholding system. The small farmers who supposedly benefit most from a land reform program have not made any net gais in acreage. In fact, it would appear that these individual titles are given almost exclusively to persons who already occupy and work the land. Finally, it must be concluded that the "benefits" of agrarian reform are very loosely defined and do not necessarily represent titles. It is true that the war and economic hardships have increased the rural noise level and there is some amount of "clamoring" as peasants move to cities and are shifted around the country to avoid the war. The GON would like to see these people go back to productive work and it would like to use the opportunity to settle them in strategic areas to form a buffer zone—what one rancher called "a band of land" filled with armed and loyal Campesinos. The recently announced amendments to the agrarian reform law of 1981 (REF. A) indicate that the GON expects to use agrarian reform in a bigger way in 1986. The latest challenges will meet a newly streamlined set of solutions. The GON could make 1986 the year of real distribution.

13. A final note: The recently enacted amendments to the agrarian reform law now allow the GON to confiscate, at will, landholding of any size. The revised law removes any barriers, however fragile they may have been, to arbitrary confiscation. Although the concept of private property still exists in the Sandinista lexicon, in today's Nicaragua there is no guarantee—the GON can use the agrarian reform law to work its will with friends as well as enemies. Statements made publicly and privately by senior GON officials over the years support the contention of the opposition that in revolutionary Nicaragua no one "owns" his property; he is merely a "custodian" for whatever period of time suits the government and the FSLN.

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By Mr. EXON:

S. 2344. A bill to amend title 10, United States Code, to authorize limited use of commissary stores by members of the Selected Reserve; to the Committee on Armed Services.

LIMITED USE OF COMMISSARY STORES BY MEMBERS OF THE SELECTED

Mr. EXXON. Mr. President, today I offer a bill to provide members of the National Guard and Reserve components a more meaningful military commissary benefit.

The Congress has been instrumental in supporting the Guard and Reserves. Building upon the Defense Department's total force approach of managing the Active and Reserve components as one combined military force, the Congress has provided considerable amounts of new equipment and encouraged a greater reliance upon the Reserve Forces. Much remains to be done in the areas of equipment, training, and overall readiness but great progress has been made in integrating the Reserve Forces into our Nation's defense plans.

My bill would focus on the all-important task of recruiting and, more importantly, retaining the qualified and experienced men and women that are the foundation of a sound military structure. Today, that foundation is being challenged by Gramm-Rudman-Hollings reductions and probable reductions in future retirement benefits. Whereas over the past few years we have witnessed record recruiting and retention figures, the signs point to a less bright future.

What my bill would do is to expand the military commissary benefit already available to members of the Reserve components and make it a more tangible and meaningful one. At the present time, the men and women of our Reserve components are eligible to use commissaries only during their annual 2 weeks of active duty training. A significant portion, if not most, of these individuals perform this active duty training overseas or at distant locations away from home and do not truly get the opportunity to personally exercise the benefit. The Defense Department has taken steps to encourage the members' spouses to shop at the commissary during the members absence. But it appears that many spouses, particularly those who are unfamiliar with the active duty military society, are reluctant to venture on their own to the commissary. Dependents who do use the commissary would probably make only one or two visits to do their weekly shopping during that time. This is somewhat helpful to a family's budget but hardly a very meaningful benefit.

I am proposing instead that members of the Reserve components and their dependents be authorized to use military commissaries a number of days each year equal to the number of days the member performs active duty for training as member of the Selected Reserve in a year, or 14 days, whichever is less. The use of the earned privilege would be good for 1 year after the date of the active duty training performed.

This is not the first time that this expanded benefit has been looked at by the Congress. As a result of an earlier amendment I offered, the Defense Department conducted a test of this expanded benefit in three parts of the country from January 1, 1984 to March 1, 1985. The test revealed several things that support the proposed expanded benefit. First, based upon a questionnaire completed during the commissary visit by the member or their authorized dependent, Reserve personnel in the hard-to-retain intermediate enlisted pay grades of E–4 to E–7 and officer pay grades of 0–2 to 0–4 were more likely to take advantage of the commissary benefit than others. Although they constitute 70 percent of the Selected Reserve population, this intermediate pay group made over 83 percent of the commissary visits. Families of Guard and Reserve members participated in over 70 percent of the commissary visits made as part of this test. For many, it may have been their first opportunity to experience a tangible benefit of Reserve service.

Also noteworthy is the fact that the test revealed the commissaries were not overrun by reservists and were not adversely affected in their ability to serve the active duty and retired communities who are the primary users of the commissaries. The reservists did, on the average, spend $140 per visit as opposed to an average of $40 per trip

by a full-time patron. Obviously, the benefit was seen as a meaningful one to pursue.

In recognition of this, I was successful in amending the Senate version of the 1986 defense authorization bill to make this test permanent for all members of our Reserve components. Unfortunately, the provision was dropped in the Senate-House conference on the bill. Opposition to the provision was partly centered on the belief that somehow it detracted from the benefits received by the active duty community. However, I do not see this as a legitimate complaint because the expanded benefit is, and should remain, considerably less than that received by the active duty community.

Grocers also strongly opposed the provision because they perceived a loss of business. In reality, very little business would be lost as the benefit really equates to about one shopping trip per month. Furthermore, the test results reveal that those Guard and Reserve families that live more than 50 miles away from a commissary are far less likely to use it for shopping. The 1984 National Guard and Reserve Survey reported that 50 percent of all Selected Reserve members live more than 46 miles from a commissary. Only 10 percent of the Reserve shoppers in the test came from more than 50 miles away. Additionally, only 2 percent of the test participants traveled more than 100 miles. One-fourth of the Selected Reserve population lives that distance from the nearest commissary.

Mr. President, in this time of budget reductions we must look squarely at what the expanded commissary benefit will cost. On April 16, 1985, the Congressional Budget Office reported that it concurred with earlier Defense Department estimates of a similar, but not identical bill, H.R. 1577. That report said unlimited use of commissaries by members of the Selected Reserve "would not result in an increase in sales volume large enough to necessitate an increase in personnel. Based on these findings no significant increase in cost is expected due to this provision of the bill." My bill does not include the second provision of H.R. 1577 which would allow retired reservists who have not reached age 60, the age at which they become eligible to draw retirement pay and benefits, the same unlimited use of commissary and exchange stores as those reservists who have reached age 60. This provision, which I emphasize that I have not included, would cost up to $15 million annually.

According to a recent study by the Rand Corp., over 31 percent of those members of the Guard and Reserves cited "family and leisure time demands" as the reason they decided to leave the service. Clearly, Guard and Reserve duty makes great demands upon the serving members as well as that member's family. Indeed, the weekend warrior is becoming a creature of the past as we place more and more time demands upon the Reserve components. My bill would do something highly visible and meaningful for members of the Selected Reserve and their families. It would especially benefit those members in the experienced but hard to retain category and encourage more members to continue their Reserve affiliation, thereby ensuring higher levels or readiness and easing the high cost of training replacements. And it would do so at no cost to the taxpayer. I urger Senate to support this bill and will pursue it as part of the fiscal year 1987 Defense Authorization Act.

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By Mr. KENNEDY (for himself, Mr. MOYNIHAN, Mr. KERRY, Mr. SIMON, Mr. DODD, Mr. MATSUNAGA, and Mr. METZENBAUM):

S. 2345. A bill to improve counseling, education, and services relating to acquired immune deficiency syndrome; to the Committee on Labor and Human Resources.

ACQUIRED IMMUNE DEFICIENCY SYNDROME COUNSELING, EDUCATION, AND SERVICE ACT

● Mr. KENNEDY. Mr. President, I rise to introduce the Acquired Immune Deficiency Syndrome Education, Counseling, and Services Act of 1986. This legislation which I am introducing with Senators MOYNIHAN, KERRY, SIMON, DODD, MATSUNAGA, and METZENBAUM will provide additional Federal support to meet this most dreadful challenge that confronts us.

Mr. President, in a few more years, the acquired immune deficiency syndrome will claim more American lives than the war in Vietnam. It is projected that 76,000 Americans will have this disease by the year 1990. There are now 23 American cities, each of which has over 100 cases of AIDS and over 1,000 cases of AIDS related complex.

Beyond these cases which are already identified, somewhere between 1 and 2 million people carry the AIDS antibody and are infected with the AIDS virus. Conservative estimates are that 25 percent of this group will eventually become ill. This terrible disease could easily become the most awful experience faced by our country since the last world war.

As a great nation with tremendous resources, we must rise to meet this crisis with intelligence and determination. The Foundation in Biomedical Research in which the Government has invested over the years has given us a great advantage in confronting this national tragedy. Without the many advances of the last decade, especially recombinant DNA technology, there would be far less hope than we have that we may yet find a cure for AIDS and stop its spread.

But there is reason to hope. Efforts to find an effective vaccine are well under way. Testing on new therapies is being greatly expanded. These efforts must continue to move full spead ahead.

Until we have a vaccine and a cure, a great deal remains to be done. We must prevent further spread by educating those who are at risk. We must inform the public about how the disease is transmitted and allay widespread fears. We must counsel those who are infected whose future is uncertain. And we must treat those who are ill with humaneness and compassion. We must do so rationally and effectively while making the most efficient use of our health dollars and resources.

Mr. President, the bill I am introducing is intended to address these tasks. First it will support counseling of individuals who are found to be antibody positive to the AIDS virus. It will support education and information dissemination amongst high-risk groups about how to prevent further spread of infection. And it will provide education to workers who are in occupations which bring them into contact with people who have AIDS.

Second, this bill will support the establishment of cost-effective networks of coordinated outpatient medical services for AIDS patients. This will provide more rational and humane services to victims of the disease. It will also develop alternatives to long-term hospital inpatient services which are proving inefficient and cost ineffective as an approach to providing medical services for AIDS patients.

Last, this bill will establish in law a coordinating committee at the National Institutes of Health to guide the crucial biomedical research effort.

Mr. President, some will criticize this measure as duplicative of efforts already under way. These critics have little comprehension of the enormity of the problem we face. In recent months I have been visited by city councilmen from around the country. I have received letters from our Nations mayors and from my colleagues in the Congress. All have been unanimous in their alarm about the difficulties presented by the rising number of American citizens suffering with this syndrome. All have been clear about the need for expanded education and counseling and accessible medical services to rationally meet the needs of the population which is ill. With this measure we hope to provide assistance to the cities represented by these figures. We seek to serve notice that the Congress is attentive to the growing danger presented by this epidemic.

My colleague, Senator HATCH, the chairman of the Labor and Human Resources Committee has recently held a hearing on AIDS. Witnesses at

this hearing similarly attested to the importance of education for prevention, and cost effective services. I look forward to working with Senator HATCH and the other members of our committee to report out a bill this year that will contribute to the effort that is needed to face this epidemic. It is my hope that this bill will win broad bipartisan support. I urge my colleagues to join me in rising to the challenge before us.●

● Mr. MOYNIHAN. Mr. President, I rise today to become an original cosponsor of legislation introduced by my distinguished colleague from Massachusetts [Mr. KENNEDY] to support efforts to control one of the most virulent diseases of modern times—acquired immune deficiency syndrome, better known by its acronym AIDS. This is a matter of genuine urgency.

Since first identified in this country 7 years ago, the incidence of AIDS has grown at a startling rate. AIDS afflicts men and women, homosexuals and heterosexuals, adults and children. According to the Centers for Disease Control [CDC], as of April 7, 1986, 19,181 Americans had been infected with the virus, and of that number 10,152 have died. The CDC estimates that the number of AIDS cases will double every 13 months.

In New York, the news is particularly troubling. As of April 7, the CDC reports that New York City has 5,946 cases and 3,239 reported deaths. Of these cases at least 1,758 are found among intravenous [IV] drug users.

More than 270 pediatric cases have been reported, with 108 of them in New York City alone.

There is yet no cure for the disease, no proven effective form of treatment. The only way to control this lethal disease is to prevent its further spread, and one way to do that is through public education.

Medical evidence strongly suggests that a person can reduce the risk of contracting AIDS by avoiding certain behavior. Moreover, greater public understanding of this mysterious disease can correct misconceptions and allay public fears.

This legislation would amend the Public Health Service Act to establish a grant program under the Secretary of Health and Human Services to expand existing AIDS public education programs and create new ones.

In addition, the bill would make available grants to public and private organizations for the establishment or expansion of counseling programs serving individuals who have tested positively for the AIDS virus, including medical, mental health, and legal counseling.

The education and counseling programs are authorized for $10 million annually for fiscal years 1987-89, with the Federal share of any program to be 50 percent. A single grant could not exceed $50,000.

It is becoming apparent that the deadly AIDS virus, in addition to attacking the immune system, invades the brain and central nervous system of many of its victims. It is precisely because many AIDS patients suffer demential loss of memory and certain neurological impairments, that there is often a need for long-term care and home care services.

The CDC estimates that the average cost of treating an AIDS patient, from diagnosis until death, is $140,000.

The legislation addresses the cost of treating victims. By creating a program to make grants to public and nonprofit private organizations for the development and establishment of comprehensive outpatient services for AIDS victims, the bill can place individuals in their homes and intermediate facilities instead of keeping them in more expensive hospital settings. The grant program, under the auspices of the Secretary of Health and Human Services, would feature a broad spectrum of services, including the provision of multidisciplinary teams of physicians and nurses with AIDS-related training, ambulatory care services, counseling and psychosocial support services, home healthcare services, and hospice and skilled nursing care.

The 23 metropolitan areas with the highest incidences of AIDS will be eligible to apply for such grants.

In order to be eligible for a grant, an applicant would have to establish a network advisory committee to assist it in developing or expanding the resources of local care providers involved in treating AIDS victims.

The legislation stipulates that projects demonstrating the ability to serve the largest number of persons will receive preference. Applicants that can serve a large number of children with AIDS will also receive preference.

In addition, at least two of the grants for each fiscal year will be reserved for networks which make available comprehensive services to individuals who have AIDS or AIDS-related complex and who are intravenous drug users.

This part of the program is authorized for $15 million for each fiscal year 1987-89, with no grant to exceed $2 million in a single fiscal year.

Finally, the legislation would create within the National Institutes of Health [NIH] a 13-member AIDS Research Coordinating Committee to coordinate research conducted or supported by the NIH, and identify further research needs. Members of the committee would include the directors of the National Institutes involved in AIDS research; three persons conducting NIH-supported AIDS research but who are not affiliated with the NIH; the director of the Centers for Disease Control; a researcher of outstanding ability who is qualified to evaluate such research; and the Assistant Secretary of Health.

Mr. President, this Nation is approaching an unhappy milestone: very shortly, we will see our 20,000th case of AIDS. Every one of those AIDS victims may eventually die from the disease, at unprecedented costs to the Nation and our healthcare systems. We cannot classify it as an affliction affecting only a limited group. It affects all of society, and it must be confronted. I urge all my colleagues to support this important legislation.●

● Mr. DODD. Mr. President, since acquired immune deficiency syndrome was initially recognized by health officials in 1981, hysteria concerning the disease has been fueled by the release of inaccurate and incomplete information concerning its cause and transmission. In the midst of this often confused arena, however, several facts are, unfortunately, quite clear: over 19,000 cases of AIDS have been reported to date and the disease has claimed over 10,000 deaths. In addition, it is estimated that between 500,000 to 1 million Americans have been infected with the AIDS virus and that one-third of those exposed to the virus may eventually develop the disease.

This is a national health problem of enormous magnitude. The disease has afflicted most severely the gay community, whose male members account for 73 percent of AIDS victims. The disease has also been transmitted among heterosexual individuals. It continues to strike intravenous drug users, recipients of blood transfusions, and hemophiliacs. While most AIDS victims are adults, over 240 cases of AIDS in children have been reported. Almost half of those children have now died from the disease.

The maintenance and establishment of health policy in this area, it seems to me, must be guided by several basic objectives. First, we must ensure that comprehensive outpatient services are available to treat, quickly and compassionately, the physical and psychological needs of AIDS victims and individuals who have been tested HTLV-3 antibody positive. Second, we must ensure that facts regarding the disease and its transmission are communicated quickly and accurately to high risk groups and the public at large to prevent further spread of the disease. And, finally, we must continue to fund and coordinate research on AIDS to ensure that a cure and the most effective AIDS test and treatment are developed quickly and efficiently.

I am pleased to be an original cosponsor of a bill, being introduced

today by my colleague from Massachusetts, Senator KENNEDY, which carries out these objectives. The bill authorizes grants for the establishment of outpatient networks to provide, among other things, comprehensive ambulatory care services, physical and mental health counseling, and a full range of psychosocial support services for AIDS and AIDS-related complex victims. The bill also provides grants for full-scale educational programs and establishes a research coordinating committee to guide and coordinate the research efforts at the National Institutes of Health.

Developing and maintaining a rational and compassionate health policy on AIDS treatment, education, and research today undoubtedly presents a challenge to ensure both public health and individual liberty. Irrational proposals abound. This January, William F. Buckley reportedly advocated tattooing AIDS patients with identifying marks. One Harvard Medical School professor recommended that drug addicts who have AIDS be shipped to a former leper colony on an island off the coast of Massachusetts. A proposal revealed in a report by a University of California professor of law would include quarantining all people who have been exposed to AIDS. Getting the health threat posed by AIDS under control is vital; but doing so within the framework of our Constitution and civil rights laws is mandatory. It is my hope that the bill being introduced today goes a long way toward meeting this challenge.●

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By Mr. HELMS:

S. 2346. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure safer pesticides and to better protect the public and the environment, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PESTICIDE REFORM ACT

● Mr. HELMS. Mr. President, I am introducing a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA], the basic statute governing the production and use of pesticides for agricultural purposes and for many general household purposes. This act is administered by the Environmental Protection Agency, which is charged with responsibility for ensuring that pesticides do not cause unreasonable adverse effects on the environment, taking into account particular costs and benefits associated with the use of each pesticide.

The Pesticide Reform Act of 1986 is the product of months of hard work and compromise by the Chemical Specialty Manufacturers Association and agricultural commodity user groups. In forging this compromise, each participant recognized the need to protect the environment, users, and consumers of pesticide products from unnecessary harm. Everyone involved has had the goal of assuring only safe and effective chemical products make their way into the marketplace, while at the same time balancing these important concerns with the need to maintain the effectiveness of the free enterprise system in a growing economy.

The bill I introduce today is similar in some respects to S. 2215, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, introduced by my distinguished colleague, Senator LUGAR. S. 2215 was developed in cooperation with the National Agricultural Chemicals Association and a coalition of environmental groups. However, there are significant differences in approach between the two bills. For example, the bill I am introducing would not require the payment of any reregistration fees as would be required by the NACA proposal. In addition, my bill would generally extend the reregistration timetables beyond those established in the NACA bill and would increase the flexibility granted to EPA for administering FIFRA.

Mr. President, in introducing this legislation I do not necessarily endorse every provision. I am well aware that some whose expertise I respect, including the Environmental Protection Agency, have reservations concerning certain aspects of the bill. However, the bill is a framework for working out differences in perspective. I am certainly prepared to evaluate arguments made by all sides as we proceed through the legislative process. I have every expectation that the Committee on Agriculture, Nutrition, and Forestry will reach an agreement on FIFRA legislation and move it forward expeditiously.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD at this time, along with a brief summary.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2346

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pesticide Reform Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

SEC. 2. REFERENCES TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

TITLE I—DEFINITIONS

SEC. 101. CERTIFIED APPLICATOR.

Section 2(e) (7 U.S.C. 136(e)) is amended—

(1) in paragraph (3), by striking out "which is classified for restricted use" and inserting in lieu thereof "for compensation or hire"; and

(2) by adding at the end the following new paragraphs:

"(5) NONCERTIFIED COMMERCIAL APPLICATOR.—Unless otherwise prescribed by the labeling of a pesticide, a pesticide shall be considered to be applied under the direct supervision of a commercial applicator if the pesticide is applied by a person trained and registered under section 4 acting under the instructions and control of a commercial applicator who is available if and when needed, even though such commercial applicator is not physically present at the time and place the pesticide is applied.

"(6) COMPETENT PERSON.—For purposes of paragraph (4), a person shall not be considered 'competent' unless the person—

"(A) has successfully completed the training required under paragraph (7), as verified by the State regulatory authority; and

"(B) is a certified applicator or works under the supervision of a certified applicator.".

SEC. 102. INGREDIENT STATEMENT.

Subsection (n) of section 2 (7 U.S.C. 136(n)) is amended to read as follows:

"(n) INGREDIENT STATEMENT.—

"(1) IN GENERAL.—The term 'ingredient statement' means a statement that contains—

"(A) the name and percentage of each active ingredient, the name of each inert ingredient listed under section 3(h)(1), and the total percentage of all inert ingredients, in the pesticide; and

"(B) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic.

"(2) COMMON NAME.—An inert ingredient listed under section 3(h)(1) shall be identified by its most common name, instead of its chemical name."

SEC. 103. MISBRANDED.

Section 2(q)(1) (7 U.S.C. 136(q)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (G);

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(I) in the case of a pesticide intended for export that is substantially similar in composition and use pattern to a pesticide registered under section 3, the label does not contain the same health, safety, and hazard precautions as a pesticide registered under section 3, unless such precautions on the label are in conflict with the law of the importing country.".

SEC. 104. PESTICIDE.

Section 2(u) (7 U.S.C. 136(u)) is amended—

(1) by striking out "and" at the end of clause (1); and

(2) by inserting after "desiccant" the following: ", (3) any substance or mixture of substances intended for use as an antimicrobial, and (4) any pesticide product, unless the context otherwise requires".

SEC. 105. STATE.

Section 2(aa) (7 U.S.C. 136(aa)) is amended by adding at the end thereof the following new sentence: "The term 'State' means a State administered as a whole and not a political subdivision of a State.".

SEC. 106. USE OF ANY REGISTERED PESTICIDE IN A MANNER INCONSISTENT WITH ITS LABELING.

The first proviso of section 2(ee) (7 U.S.C. 136(ee)) is amended—

(1) in clause (1), by inserting "rate" after "dosage"; and

(2) by striking out "or (4)" and all that follows through "by the labeling" and inserting in lieu thereof the following: "(4) mixing a pesticide with a fertilizer or another pesticide if such mixture is not prohibited by the labeling, (5) using a registered pesticide for the formulation of an end use product or repackaging a pesticide that is an end use product, or (6) applying a household cleaning product containing an antimicrobial active ingredient in household or institutional cleaning uses".

SEC. 107. ADDITIONAL DEFINITIONS.

Section 2 (7 U.S.C. 136) is amended by adding at the end the following new subsection:

"(s) ANTIMICROBIAL.—The term 'antimicrobial' means—

"(1) disinfectants intended to destroy or irreversibly inactivate bacteria, fungi, or viruses on surfaces or inanimate objects;

"(2) sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces or in water or air;

"(3) bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;

"(4) sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores on inanimate surfaces;

"(5) fungicides and fungistats intended to inhibit the growth of, or destroy, fungi (including yeasts) on inanimate surfaces; or

"(6) commodity preservatives and protectants intended to inhibit the growth of, or destroy, bacteria in or on raw materials (such as adhesives and plastics) used in manufacturing or manufactured products (such as fuel, textiles, lubricants, wood products, and paints).

"(gg) IMPORTING COUNTRY.—The term 'importing country' means the first country to which a pesticide, device, or active ingredient, subject to the notification requirement of section 17(a), is exported from the United States.

"(hh) LOW VOLUME NONFOOD PESTICIDE USE.—A pesticide use shall be considered a low volume nonfood use if the quantity of potential sales are too small to warrant the cost of complying with a regulation necessary to make such use legal.

"(ii) MATERIAL SAFETY DATA SHEETS.—The term 'material safety data sheet' means a sheet required under section 3(c)(10).

"(jj) OUTSTANDING DATA REQUIREMENT.—

"(1) IN GENERAL.—The term 'outstanding data requirement' means any study, required information, or data necessary to make a determination under section 3(c)(5) that—

"(A) has not been submitted to the Administrator; or

"(B) has been submitted to the Administrator but which the Administrator determines are not valid, complete, or adequate to make a determination under section 3 and the regulations and guidelines issued thereunder.

"(2) FACTORS.—In making a determination under paragraph (1)(B), the Administrator shall examine, at a minimum, relevant protocols, documentation of the conduct and analysis of the study, and the results of the study to determine whether the study and the results of the study fulfill the data requirement for which the study was submitted to the Administrator.

"(kk) PESTICIDE DEALER.—The term 'pesticide dealer' means any person who sells a pesticide to a commercial or private applicator, except that such term shall not include

a retail vendor of an antimicrobial or household nonrestricted use pesticide.

"(ll) PESTICIDE PRODUCT.—The term 'pesticide product' means a pesticide in the particular form (including composition, labeling, and packaging) in which the product is (or is proposed to be) distributed or sold.

"(mm) PESTICIDE TESTING FACILITY.—The term 'pesticide testing facility' means any person that conducts any test, study, survey, or investigation of the properties, effects, or behavior of any pesticide (or any ingredient, metabolite, or degradation product thereof) for or on behalf of any registrant, applicant for registration, or other person who sells or distributes the pesticide (or contemplates selling or distributing the pesticide), except that such term does not include any person solely on account of the participation of such person as a cooperator in field testing of a pesticide in compliance with an experimental use permit issued under section 5.

"(nn) POLITICAL SUBDIVISION OF A STATE.—The term 'political subdivision of a State' means any geographical area within a State over which authority is exercised by an elected or appointed official, including a county, township, city, or town.

"(oo) TERMS OF REGISTRATION.—The term 'terms of registration' means the requirements imposed on a pesticide product under this Act concerning the composition, labeling, packaging, and restrictions on the distribution, sale, and use of the product.

"(pp) TO DISTRIBUTE OR SELL.—The term 'to distribute or sell' means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver, except that such term shall not include the holding or application of a registered pesticide product or use dilution thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.".

## TITLE II—REGISTRATION OF PESTICIDES

SEC. 201. DATA IN SUPPORT OF REGISTRATION.

Subparagraph (A) of section 3(c)(2) is amended to read as follows:

"(A) DATA IN SUPPORT OF REGISTRATION.—

"(i) The Administrator shall publish guidelines specifying the kinds of information that would usually be required to support the registration of a pesticide and shall revise such guidelines from time to time.

"(ii) If after such publication the Administrator requires any additional kind of information under subparagraph (B), the Administrator shall permit sufficient time for applicants to obtain such additional information.

"(iii) Any Federal agency may proceed with the use of such pesticide unless the Administrator determines that missing or deficient data is sufficiently important to warrant a suspension or cancellation.

"(iv) The Administrator, in establishing guidelines for data requirements for the registration of pesticides with respect to minor uses and with respect to various types and classes of pesticides, shall make such guidelines commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. In the development of such guidelines, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the guidelines on the incentives for any potential registrant to undertake the development of the required data.

"(v) Analyses in support of registration are equivalent to an environmental impact statement and may be incorporated by reference and relied on in any other Federal or cooperative document developed in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(vi) Such guidelines may not contain a requirement for applicants to perform human epidemiological studies to obtain or support registrations.

"(vii) Guidelines, and modifications thereof, shall be published in the Federal Register. The Administrator shall provide for public comment for guidance in development of such guidelines or modifications.";

SEC. 202. COMPENSATION FOR DATA ON INERT INGREDIENTS.

Subparagraph (D) of section 3(c)(2) (7 U.S.C. 136a(c)(2)(D)) is amended to read as follows:

"(D) EXEMPTION.—

"(i) No applicant for registration of a pesticide who proposes to purchase a registered pesticide or an inert ingredient from another producer in order to formulate such purchased pesticide or an inert ingredient into an end use product shall be required to—

"(I) submit or cite data pertaining to the safety of such purchased product; or

"(II) offer to pay reasonable compensation otherwise required by paragraph (1)(D) for the use of any such data or reregistration fees.

"(ii) No applicant for registration of a pesticide who proposes to purchase an inert ingredient from another producer in order to formulate the pesticide shall be required to offer to pay reasonable compensation otherwise required by paragraph (1)(D) for a study required to be cited or submitted that was generated pursuant to subsection (h)(7) using authority available to the Administrator."

SEC. 203. TIME FOR ACTING WITH RESPECT TO APPLICATION.

Paragraph (3) of section 3(c) is amended to read as follows:

"(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—

"(A) The Administrator shall review the application on receipt and provide notification of any deficiencies of content or form within 90 days of receipt.

"(B) If a registrant receives such a notification, the registrant shall provide the additional information or may elect to withdraw the application.

"(C) On review without such notification (or, in the case of a subsequent submission adequate to satisfy a deficiency of information noted by the Administrator, on the receipt of such submission), the Administrator shall act on the application within 180 days of such receipt, unless the Administrator notifies the registrant in writing, specifying the reason for the delay in the registration process.

"(D) If the Administrator fails to act within 360 days of such receipt—

"(i) the application is deemed to be acted on and approved; and

"(ii) the Administrator shall promptly take all actions resulting from such approval under this Act.".

SEC. 204. NOTICE OF APPLICATION.

Section 3(c)(4) (7 U.S.C. 136a(c)(4)) is amended—

(1) in the first sentence, by striking out "promptly" and inserting in lieu thereof "not later than 30 days"; and

(2) in the second sentence, by striking out "30" and inserting in lieu thereof "60".

SEC. 205. APPROVAL OF REGISTRATION FOR SUBSTITUTED INERT INGREDIENTS.

Paragraph (5) of section 3(c) (7 U.S.C. 136a(c)(5)) is amended to read as follows—

"(5) APPROVAL OF REGISTRATION.—

"(A) The Administrator shall register a pesticide if the Administrator determines that, when considered with any restrictions imposed under subsection (d)—

"(i) its composition is such as to warrant the proposed claims for it;

"(ii) its labeling and other material required to be submitted comply with this Act;

"(iii) it will perform its intended function without unreasonable adverse effects on the environment;

"(iv) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment; and

"(v) in the case of an application to amend a registration to substitute an inert ingredient for an inert ingredient listed under subsection (h)(1), that subsection (i)(1) is satisfied.

"(B) The Administrator or any State or State agency shall not make any lack of essentiality a criterion for denying registration of any pesticide.

"(C) If two pesticides meet the requirements of this paragraph, one pesticide shall not be registered in preference to the other pesticide.

"(D) In considering an application for the registration of a pesticide, the Administrator may waive data requirements pertaining to efficacy. If a waiver is granted, the Administrator may register the pesticide without determining that the composition of the pesticide is such as to warrant proposed claims of efficacy.

"(E) If a pesticide is found to be efficacious by any State under section 24(c), a presumption is established that the Administrator shall waive data requirements pertaining to efficacy for use of the pesticide in such State.

"(F) On or after the date specified for submission of a study in subsection (h), an application to register or to amend the registration of an application to register or to amend the registration of a pesticide containing a listed inert ingredient shall be deemed not to satisfy the requirements of this paragraph, unless the application is supported by the study required under paragraph (1)(D).".

SEC. 206. CONDITIONAL REGISTRATION.

Subparagraphs (B) and (C) of section 3(c)(7) (7 U.S.C. 136a(c)(7) (B) and (C)) are amended to read as follows:

"(B)(i) The Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that—

"(I) the applicant has submitted satisfactory data pertaining to the proposed additional use;

"(II) amending the registration in the manner proposed by the applicant would not materially increase the risk of any unreasonable adverse effect on the environment; and

"(III) the additional use is in the public interest.

"(ii) The Administrator or State or State agency shall not make any lack of essential-

ity a criterion for denying conditional registration of any pesticide.

"(iii) Notwithstanding clause (i), no registration of a pesticide may be amended to permit an additional use of such pesticide if the Administrator has issued a notice stating that such pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure specified in regulations issued under this Act, and during the pendency of any risk benefit evaluation initiated by such notice, if—

"(I) the additional use of such pesticide involves a major food or feed crop; or

"(II) the additional use of such pesticide involves a minor food or feed crop and the Administrator determines, with the concurrence of the Secretary of Agriculture, that there is available an effective alternative pesticide that does not meet or exceed such risk criteria.

"(iv) An applicant seeking amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under paragraph (5).

"(v) If the applicant is unable to submit an item of data (other than data pertaining to the proposed additional use) because it has not yet been generated, the Administrator may amend the registration of a pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

"(vi) If data concerning chronic toxicity (oncogenicity, reproductive effects, and mutagenicity), neurotoxicity, or teratogenicity are required for registration of an additional use of a pesticide that is not a minor use, and such a data requirement was in effect at the time the studies to obtain the data commenced, a conditional registration for such use shall not be granted under this subparagraph unless such data have been submitted.

"(vii) An amendment to an existing conditional registration may be issued if the registrant has initiated necessary tests to secure such data, even though the data have not been submitted.

"(C)(i) Except as provided in clauses (ii) and (iii), the Administrator may conditionally register a pesticide containing an active ingredient not contained in any registered pesticide for a period reasonably sufficient for generation and submission of required data (that are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement) if—

"(I) by the end of such period the Administrator receives such data;

"(II) such data do not meet or exceed the risk criteria specified in regulations issued under this Act; and

"(III) such other conditions as the Administrator may prescribe are met.

"(ii) A conditional registration under this subparagraph shall be granted only if the Administrator determines that—

"(I) use of the pesticide during such period will not cause any unreasonable adverse effect on the environment; and

"(II) use of the pesticide is in the public interest.

"(iii) If data concerning chronic toxicity (oncogenicity, reproductive effects, and mutagenicity), neurotoxicity, or teratogenicity are required for registration of the pesticide that is not a minor use, and such a data requirement was in effect at the time the studies to obtain the data commenced, a conditional registration shall not be granted under this subparagraph unless such data have been submitted.".

SEC. 207. INTERIM ADMINISTRATIVE REVIEW.

(a) INTERIM ADMINISTRATIVE REVIEW.—Paragraph (8) of section 3(c) (7 U.S.C. 136a(c)(8)) is amended to read as follows:

"(8) INTERIM ADMINISTRATIVE REVIEW.—

"(A)(i) Notwithstanding any other provision of this Act, the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide under this Act, unless such interim administrative process is based on a validated test or other significant evidence raising prudent concerns of an unreasonable adverse risk to man or to the environment.

"(ii) The Administrator shall publish in the Federal Register notice of the definition of the terms 'validated test' and 'other significant evidence' as used in this subparagraph.

"(B)(i) The Administrator may conduct a special review of a pesticide use if the Administrator determines, based on a validated test or other significant evidence, that the use of the pesticide (taking into account the ingredients, impurities, metabolites, and degradation products of the pesticide)—

"(I) may pose a risk of serious acute injury to humans or domestic animals;

"(II) may pose a risk of inducing in humans an oncogenic, heritable genetic, teratogenic, fetotoxic, reproductive effect, or a chronic or delayed toxic effect, which risk is of concern in terms of either the degree of risk to individual humans or the number of humans at some risk, based on effects demonstrated in humans or experimental animals, known or predicted levels of exposure of various groups of humans, and the use of appropriate methods of evaluating data and relating such data to human risk;

"(III) may result in residues in the environment of nontarget organisms at levels that equal or exceed concentrations acutely or chronically toxic to such organisms or at levels that produce adverse reproductive effects in such organisms, as determined on the basis of tests conducted on representative species or from other appropriate data;

"(IV) may pose a risk to the continued existence of any endangered or threatened species designated by the Secretary of the Interior or the Secretary of Commerce under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(V) may result in the destruction or other adverse modification of any habitat designated by the Secretary of the Interior or the Secretary of Commerce under such Act as a critical habitat for any endangered or threatened species; or

"(VI) may otherwise pose a risk to humans or to the environment that is of sufficient magnitude to merit a determination as to whether the use of the pesticide product offers offsetting social, economic, and environmental benefits that justify initial or continued registration.

"(ii) In making a determination that a pesticide use satisfies one of the criteria for issuance of a special review required under clause (i), the Administrator shall consider available evidence concerning both the adverse effect in question and the magnitude and scope of exposure of humans and nontarget organisms associated with use of the pesticide.

"(iii) The Administrator shall—

"(I) provide for preliminary notification of registrants and applicants if the Administrator has determined that the criteria for issuance of a special review may have been met; and

"(II) afford registrants and applicants an opportunity to respond to the notification prior to issuance of a special review.

"(iv)(I) Before initiating an interim administrative review, the Administrator shall notify all registrants, users of the pesticide, and the public of the intent of the Administrator to initiate a public interim administrative review by publishing such notice in the Federal Register.

"(II) The registrants and users of the pesticide shall have 60 days after receipt of the notice in which to respond.

"(III) Within 60 days after the response period, the Administrator shall determine whether an interim administrative review of the pesticide shall be initiated.

"(C)(i) Notice of an interim administrative review shall be provided to all registrants, pesticide users, and interested members of the public and shall be published in the Federal Register.

"(ii) The notice shall state the basis for the review, indicate the availability of all data on which the position of the Administrator is based, and include a request for any additional data needed for the review.

"(iii) Not later than 90 days after publication of a notice of such review, comments may be submitted on such review.

"(iv) Not later than 90 days after the close of the comment period, the Administrator shall review all comments and additional data submitted and shall publish a proposed regulatory position.

"(v) Not later than 45 days after the close of the initial comment period, additional comments may be submitted to the Administrator to address comments filed by other parties.

"(vi)(I) The proposed regulatory position of the Administrator shall be submitted to the Scientific Advisory Panel established under section 25(d) at the next scheduled meeting of the panel for comment solely on relevant scientific issues. Relevant scientific data also may be submitted to the Scientific Advisory Panel concerning such position.

"(II) Not later than 60 days after such meeting, the Scientific Advisory Panel shall issue a report on such position.

"(III) The Administrator shall review and consider the report of the Scientific Advisory Panel.

"(IV) Not later than 60 days after receipt of such report, the Administrator shall issue a final regulatory decision whether to retain, restrict, or cancel the uses of the pesticide.

"(vii) Not later than 2 years after the initiation of a review, the Administrator shall make such decision.

"(viii) The time limits specified in this subparagraph may not be extended, except in exceptional circumstances in which—

"(I) additional data critical to a fair and accurate determination of risks posed by the pesticide are required; and

"(II) the extension is for a period limited to the time required to obtain and review such data on an expedited basis."

(b) APPLICATION OF AMENDMENT.—The amendment made by this section shall apply to interim administrative reviews under section 3(c)(8) initiated after the effective date of this Act.

SEC. 208. PREREGISTRATION ACCESS TO DATA.

Section 3(c) (7 U.S.C. 136a(c)) is amended by adding at the end thereof the following new paragraph:

"(9) PREREGISTRATION ACCESS TO DATA.—

"(A) Prior to the registration of a pesticide, the Administrator shall provide, in accordance with this paragraph, public access to health and safety data that are submitted in support of an initial application for the registration of a new active ingredient or initial food use of a previously registered active ingredient.

"(B) The Administrator shall publish in the Federal Register a notice of such application in accordance with paragraph (4).

"(C) Not later than 30 days after the publication of such notice, to obtain access to the data referred to in subparagraph (A), a person must send by certified mail a request for such access and the affirmation referred to in subparagraph (E) simultaneously to the Administrator and to the applicant for the registration of the pesticide.

"(D) Not later than 15 days after receipt of a request for access to such data and affirmation, the Administrator shall grant or deny such request. The Administrator may not extend the 15-day period for acting on such request.

"(E)(i) Notwithstanding any other provision of law, data referred to in subparagraph (A) may be made available only to a person who provides an affirmation (and such supporting evidence as the Administrator considers necessary) that the person is neither employed by nor acting directly or indirectly on behalf of a person or entity engaged or affiliated with a person engaged in the production, sale, or distribution of a pesticide.

"(ii) For purposes of this subparagraph, an affiliate is a person who directly or indirectly, through one or more intermediates, controls or is controlled by or is under common control with the person specified.

"(iii) The affirmation required under clause (i) shall—

"(I) state that the person is neither employed by nor acting on behalf of any business or entity, or affiliate thereof, engaged in the production, sale, or distribution of a pesticide;

"(II) identify any business, employer, or other entity, if any, on whose behalf the person is requesting access to the data; and

"(III) affirm that the person will not intentionally or recklessly violate this paragraph.

"(iv) Section 1001 of title 18, United States Code, shall apply to an affirmation made under this subparagraph.

"(F)(i) Data relating to a pesticide shall be made available to a person only for the purpose of permitting the person to comment to the Administrator on the application for registration of the pesticide.

"(ii) Except as provided in clauses (iii) and (iv), data obtained under clause (i) may not be—

"(I) published, copied, or transferred to any other individual or entity for use in any manner to obtain approval to sell, manufacture, or distribute a pesticide anywhere in the world; and

"(II) may not be used for any purpose in any court or agency of the United States or any State or political subdivision thereof prior to the decision of the Administrator on the registration of the pesticide or after such decision if the application for registration is denied.

"(iii) Data relating to a pesticide may be reasonably quoted in comments submitted to the Administrator. Such comments may not be made public prior to the decision of the Administrator on the registration of the pesticide or after such decision if the application for registration is denied.

"(iv) Such data and comments may be disclosed consistent with section 10 after registration of the pesticide.

"(G)(i) Data relating to a pesticide may be examined at an office of the Environmental Protection Agency, in accordance with this section, and may not be removed from such office.

"(ii) The Administrator shall maintain a record of the persons who inspect data. A copy of the record entry shall be sent to the data submitter.

"(iii) Once access to the data is granted, the data may be examined and comments on the application shall be filed within 60 days, unless extended an additional 30 days for good cause.

"(iv) If access to the data is denied, comments on the application shall be filed within 60 days from the determination of the Administrator denying access.".

SEC. 209. MATERIAL SAFETY DATA SHEETS.

Section 3(c) (7 U.S.C. 136a(c)) (as amended by section 208 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(10) MATERIAL SAFETY DATA SHEETS.—

"(A) Each pesticide manufacturer or importer shall obtain or develop a material safety data sheet for each pesticide produced or imported. Each affected employee shall have available a material safety data sheet for each pesticide used.

"(B) Each material safety data sheet shall be in English and shall contain at least the following information:

"(i) Except as provided for in clause (vi), the identity used on the label and—

"(I) if the pesticide is a single substance, its chemical and common name;

"(II) if the pesticide is a mixture that has been tested as a whole to determine the hazards of the pesticide, the chemical and common name of the ingredients that contribute to these known hazards, and the common name of the mixture itself; or

"(III) if the pesticide is a mixture that has not been tested as a whole, the chemical and common name of all ingredients that have been determined to be health hazards, and that comprise at least 1 percent of the composition, except that chemicals identified as carcinogens shall be listed in the concentrations that are at least 0.1 percent, and the chemical and common name of all ingredients that have been determined to present a physical hazard when present in the mixture.

"(ii) Physical and chemical characteristics of the hazardous chemical (such as vapor pressure and flash point).

"(iii) The physical hazards of the pesticide, including the potential for fire, explosion, and reactivity.

"(iv) The health hazards of the pesticide, including signs and symptoms of exposure and any medical conditions that are generally recognized as being aggravated by exposure to the chemical.

"(v) The primary route of entry.

"(vi) The permissible exposure limit established by the Secretary of Labor under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), ACGIH Threshold Limit Value, and any other exposure limit used or recommended by the pesticide manufacturer, importer, or employer preparing the material safety data sheet, where available.

"(vii) Whether the pesticide is listed in the National Toxicology Program Annual Report on Carcinogens or has been found to be a potential carcinogen in the International Agency for Research on Cancer Monographs, or by the Secretary of Labor.

"(viii) Any generally applicable precautions for safe handling and use that are known to the pesticide manufacturer, importer, or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean up of spills and leaks.

"(ix) Any generally applicable control measures that are known to the pesticide manufacturer, importer, or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment.

"(x) Emergency and first aid procedures.

"(xi) The date of preparation of the material safety data sheet or the last change to the sheet.

"(xii) The name, address, and telephone number of the pesticide manufacturer, importer, employer, or other responsible party preparing or distributing the material safety data sheet who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

"(C) If no relevant information is found for any given category on the material safety data sheet, the pesticide manufacturer, importer, or employer preparing the material safety data sheet shall mark the sheet to indicate that no applicable information was found.

"(D) Where complex mixtures have similar hazards and contents (that is, the pesticide ingredients are essentially the same but the specific composition varies from mixture to mixture) the pesticide manufacturer, importer, or employer may prepare one material safety data sheet to apply to all of these similar mixtures.

"(E) The pesticide manufacturer, importer, or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the pesticide manufacturer, importer, or employer becomes newly aware of any significant information regarding the hazards of a pesticide, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within 3 months. If the pesticide is not currently being produced or imported, the pesticide manufacturers or importer shall add the information to the material safety data sheet before the chemical is introduced into the workplace again.

"(F) Pesticide manufacturers or importers shall ensure that distributors and manufacturing purchasers of pesticides are provided an appropriate material safety data sheet with the initial shipment, and with the first shipment after a material safety data sheet is updated. The pesticide manufacturer or importer shall either provide material safety data sheets with the shipped containers or send them to the manufacturing purchaser prior to or at the time of the shipment. If the material safety data sheet is not provided with the shipment, the manufacturing purchaser shall obtain one from the pesticide manufacturer, importer, or distributor as soon as possible.

"(G) Distributors shall ensure that material safety data sheets, and updated information, are provided to other distributors

and manufacturing purchasers of hazardous chemicals.

"(H) Each employer shall maintain copies of the required material safety data sheets for each pesticide in the workplace and shall ensure that the sheets are readily accessible during each work shift to employees when the employees are in their work area.

"(I) Material safety data sheets may be kept in any form, including operating procedures, and may be designed to cover groups of pesticides in a work area where it may be more appropriate to address the hazards of a process rather than individual pesticides, except that each employer shall ensure that the required information is provided for each pesticide and is readily accessible during each work shift to employees when the employees are in their work area.

"(J) On approval of the registration of a pesticide, a material safety data sheet shall be maintained and kept current by the registrant and made available to the public by the State or designated State agency and the registrants upon request.

"(K) Within 120 days of the effective date of the Pesticide Reform Act of 1986, each registrant or producer of a currently registered pesticide active ingredient or pesticide containing an inert ingredient listed under subsection (h)(1) shall submit a material safety data sheet to the appropriate each State or designated State agency.

"(L) Such material safety data sheets shall be—

"(i) maintained and kept current by the registrants; and

"(ii) made available to the public by the State or designated State agency and the registrants on request.

"(M) The State or designated State agency may provide this information to the public, including but not limited to local police, fire, and health authorities, local officials, pesticide users, pesticide applicators, persons at manufacturing and use localities, and other members of the public.

"(N) On approval of the registration of a pesticide, a list of locations where the pesticide active ingredient will be produced in the United States shall be—

"(i) maintained and kept current by the registrant; and

"(ii) made available to the public by the State or designated agency and the registrants on request."

SEC. 210. CLASSIFICATION FOR RESTRICTED USE.

Subparagaph (C) of section 3(d)(1) (7 U.S.C. 136a(d)(1)(C)) is amended to read as follows:

"(C) The Administrator shall classify a pesticide, or the particular use or uses to which the determination applies, for restricted use if the Administrator determines that—

"(i) the pesticide when applied in accordance with—

"(I) its directions for use, warnings, and cautions for the uses for which it is registered or for one or more of such uses; or

"(II) widespread and commonly recognized practices,

may generally cause unreasonable adverse effects on the environment, including injury to the applicator; and

"(ii) such unreasonable adverse effects cannot be adequately addressed by revised or additional warnings and directions for use in the labeling or other regulatory restrictions.".

SEC. 211. REREGISTRATION OF PESTICIDES.

Subsection (g) of section 3 (7 U.S.C. 136a(g)) is amended to read as follows:

"(g) REREGISTRATION OF PESTICIDES.—

"(1) IN GENERAL.—The Administrator shall reregister each pesticide in accordance with this subsection.

"(2) LISTS OF PESTICIDE ACTIVE INGREDIENTS.—

"(A) Not later than 90 days after the effective date of the Pesticide Reform Act of 1986, the Administrator shall publish in the Federal Register a list of 300 pesticide active ingredients not reregistered since September 30, 1978, in the order of their priority, for reregistration under this Act.

"(B) Not later than 180 days after the effective date of the Pesticide Reform Act of 1986, the Administrator shall publish in the Federal Register a list of all pesticide active ingredients remaining after subparagraph (A) that have not been reregistered since September 30, 1978, in the order of their priority, for reregistration under this Act.

"(3) PRIORITY.—In establishing the lists required under paragraph (2), the Administrator shall give the highest priority to pesticides that—

"(A) are in use on or in food or feed;

"(B) will result in detectable residues of verifiable toxicological concern in potable ground water, edible fish, or shellfish; or

"(C) have previously been determined by the Administrator to have the most significant outstanding data requirements.

"(4) REMOVAL.—Not later than 90 days after the publication of a list containing an active ingredient of a pesticide under paragraph (2), the Administrator shall remove such ingredient from the reregistration list if the Administrator is requested by each registrant of each pesticide containing such ingredient that the registration of such pesticide be canceled. Prior to such cancellation, the Administrator shall publish in the Federal Register a notice of intent to cancel to allow public comment within 60 days of the notice.

"(5) NOTIFICATION.—For each pesticide active ingredient listed pursuant to paragraphs (2)(A) and (2)(B), the registrant shall provide written notification to the Administrator of the intent of the registrant to seek reregistration of the pesticide active ingredient. If the registrant or interested parties fails to respond to the Federal Register notice published under paragraph (2)(A) or (2)(B) within 180 days of such notice, the Administrator may issue a notice of intent to cancel such registration and allow 60 days for public comment on the notice.

"(6) JUDICIAL REVIEW.—The establishment of a list by the Administrator under this subsection shall not be subject to judicial review.

"(7) DATA REQUIREMENTS.—

"(A)(i) For each pesticide active ingredient listed in the notice required pursuant to paragraph (2)(A), the Administrator shall request that the registrant submit a list of all outstanding data requirements within 180 days of such notice in the Federal Register.

"(ii) Not later than the end of the 12th, 24th, and 36th month following the effective date of the Pesticide Reform Act of 1986, the Administrator shall—

"(I) identify and publish in the Federal Register a list of all outstanding data requirements based on the priorities of the Administrator; and

"(II) simultaneously notify existing registrants of each pesticide active ingredient pursuant to subsection (c)(2)(B) that, in order to maintain the registration of such pesticide under this Act, such registrants must complete studies to fill such outstanding data requirements within a reasonable time, but not to exceed 4 years, after such notice.

"(iii) The Administrator may extend the period by no more than 3 years if extraordinary circumstances beyond the control of the registrant prevent submission of necessary studies, including nonnegligent loss of laboratory results, destruction of laboratory, unavailability of laboratory facilities, major animal loss, or similar unanticipated catastrophes.

"(B)(i) For each pesticide active ingredient listed in the notice required pursuant to paragraph (2)(B), the Administrator shall request that the registrant submit a list of all outstanding data requirements within 180 days of such notice in the Federal Register.

"(ii) Not later than the end of the 36th month following the effective date of the Pesticide Reform Act of 1986, the Administrator shall—

"(I) identify and publish in the Federal Register a list of all outstanding data requirements; and

"(II) simultaneously notify existing registrants of each pesticide active ingredient pursuant to subsection (c)(2)(B) that, in order to maintain the registration of such pesticide under this Act, such registrants must complete studies to fill such outstanding data requirements within a reasonable time, but not to exceed 4 years, after such notice.

"(iii) The Administrator may extend the period by no more than 3 years if extraordinary circumstances beyond the control of the registrant prevent submission of necessary studies, including nonnegligent loss of laboratory results, destruction of laboratory, unavailability of laboratory facilities, major animal loss, or similar unanticipated catastrophes.

"(iv) If a registrant fails to comply with the requirements of subsection (c)(2)(B) within the required times, the Administrator shall issue a notice of intent to suspend such registration pursuant to subsection (c)(2)(B)(iv).

"(v) If a hearing is requested following such a suspension notice, the registrant may appeal in such hearing whether the Administrator properly classified a study as an outstanding data requirement and other matters identified for resolution in such subsection.

"(8) FILLING DATA REQUIREMENTS.—

"(A) Not later than 6 months after issuance of a notice required under paragraph (7) with respect to a pesticide active ingredient, the Administrator shall determine whether appropriate tests have been committed or contracted to fill the identified outstanding data requirements for such pesticide active ingredient.

"(B) A registrant shall submit annual progress reports to the Administrator that indicate the status of such testing and report interim results.

"(9) SUSPENSION.—

"(A) The Administrator shall provide written notice to a registrant of findings under this subparagraph and allow the registrant to respond within 60 days if the Administrator determines that—

"(i) important tests essential to a determination of whether or not the pesticide may cause unreasonable adverse effects on the environment have not been committed or contracted for within 1 year of the notice required under paragraph (7);

"(ii) progress is insufficient to ensure completion of such tests within the deadlines established in such notice; or

"(iii) the required test data have not been submitted within the specified deadline.

"(B) Within 30 days of receiving the written comments of a registrant, the Administrator may immediately issue a notice of intent to suspend such registration pursuant to subsection (c)(2)(B)(iv).

"(10) REREGISTRATION.—

"(A) Not later than 2 years after receipt of the data required by this subsection with respect to a pesticide, the Administrator shall complete reregistration of such pesticide by determining whether such pesticide fulfills the requirements of subsection (c)(5). In extraordinary circumstances, the Administrator may extend the limit prescribed by this subparagraph after notifying Congress and publishing such notice in the Federal Register at least 60 days prior to the required deadline.

"(B) Reregistration shall be accomplished by a thorough examination of all health and safety data required by the regulations and guidelines issued pursuant to section 3 or taking other action necessary to make such determination.

"(11) COMPENSATION.—

"(A) On submission of data as required under this subsection, the data submitter shall be entitled to be compensated pursuant to subsection (c)(1)(D).

"(B) If there are two or more registrants for an active ingredient registered under this Act, the compensation shall be apportioned on the basis of the market share of a registrant.

"(12) LACK OF ESSENTIALITY.—The Administrator shall not make any lack of essentiality a criterion for denying the reregistration of any pesticide.".

SEC. 212. PRIORITY LIST FOR INERT INGREDIENTS.

Section 3 (7 U.S.C. 136a) is amended by adding at the end thereof the following new subsection:

"(h) PRIORITY LIST FOR INERT INGREDIENTS.—

"(1) ESTABLISHMENT.—

"(A) The Administrator shall establish a priority list of not more than 50 inert ingredients consisting of—

"(i) inert ingredients that appear to cause a pesticide to meet or exceed a criterion for initiating an interim administrative review established under subsection (c)(8); and

"(ii) inert ingredients for which additional data are reasonably necessary to evaluate whether the inert ingredient may result in a pesticide causing an unreasonable adverse effect on the environment—

"(I) that are similar in molecular structure to a chemical that is oncogenic, mutagenic, teratogenic, or causes another significant adverse effect; and

"(II) from which a significant hazard may exist from use in pesticides and exposure to the pesticide containing the inert ingredient, based on a risk assessment.

"(B) In establishing the priority list, the Administrator shall take into account—

"(i) the differences in concept, usage, and environmental risk between various classes of pesticides; and

"(ii) data for evaluating such risk between agricultural and nonagricultural pesticides.

"(C) The Administrator shall not place on the priority list inert ingredients that are incidental contaminants formed during the production process and that are inextricably linked to the technical grade product.

"(2) PUBLICATION OF LIST.—Not later than 90 days after the effective date of the Pesticide Reform Act of 1986, the Administrator shall publish the priority list required under paragraph (1). The Administrator shall publish revisions to such list at least annually.

"(3) JUDICIAL REVIEW.—The priority list and any revisions to the priority list shall be subject to judicial review under section 16 at the time an initial or revised priority list is published.

"(4) REMOVAL OF INGREDIENTS INVOLVING ADMINISTRATIVE REVIEWS.—An inert ingredient listed on the priority list pursuant to paragraph (1)(A)(i) shall be removed from the priority list on—

"(A) a final decision by the Administrator not to initiate an interim administrative review with respect to any pesticide containing the inert ingredient, or final action by the Administrator concluding interim administrative review, and all actions under section 6 resulting therefrom; or

"(B) a final decision by the Administrator under paragraph (6)(E) not to require additional data to be generated, or the receipt and evaluation by the Administrator of all data required to be submitted under paragraph (6), and all actions under section 6 resulting therefrom.

"(5) REMOVAL OF INGREDIENTS INVOLVING ADDITIONAL DATA.—An inert ingredient listed on the priority list pursuant to paragraph (1)(A)(ii) shall be removed from the priority list on—

"(A) a final decision by the Administrator under paragraph (6)(E) not to require additional data to be generated; or

"(B) the receipt and evaluation by the Administrator of all data required to be generated under this subsection and all actions under section 6 resulting therefrom.

"(6) ADDITIONAL DATA.—

"(A) For each inert ingredient in an end use pesticide listed pursuant to paragraph (1), if the Administrator determines that additional data are required under subsection (c)(2)(A), the Administrator shall provide notice of such requirement to all registrants of an end use pesticide containing inert ingredient under subsection (c)(2)(B) and producers of the inert ingredient.

"(B) If the Administrator determines that additional data are required, the Administrator shall consider the following:

"(i) A discussion of the risks and benefits raised by the inert ingredient in the pesticide, the anticipated exposures to man and the environment from the use of the ingredient in pesticides, and the reasoning supporting the need for further testing.

"(ii) In the case of an inert ingredient listed under paragraph (1)(A)(i), the studies that the Administrator proposes to require to address the concerns identified pursuant to clause (i), or, if the Administrator proposes not to require additional studies, a discussion of the reasons for not requiring any additional studies.

"(iii) In the case of an inert ingredient listed under paragraph (1)(A)(ii), the studies that the Administrator proposes to require to address the concerns identified pursuant to clause (i) or, if the Administrator proposes not to require additional studies, a discussion of the reasons for not requiring any additional studies.

"(iv) The regulatory mechanisms or other procedures the Administrator proposes to use to generate the studies.

"(v) The dates for submission of the studies, which shall provide for submission of the studies within a reasonable time, not to exceed 5 years from the promulgation of the final notice under subsection (c)(2). The Administrator may extend this period by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent submission of necessary studies.

"(C) In preparing a requirement for additional data under subsection (c)(2)(B), the Administrator shall consider—

"(i) the minor use factors specified in subsection (c)(2)(A);

"(ii) the guidelines published pursuant to subsection (c)(2)(A);

"(iii) the use of a tiered testing program, under which the need for long-term studies would be evaluated after receipt of short-term studies;

"(iv) the use of other statutory authorities of the Administrator to require the generation of the identified studies considering nonpesticide uses; and

"(v) data generated or scheduled for generation.

"(D) The Administrator shall allow 90 days for the registrants, inert ingredient producers, pesticide users, and the public to comment on the data requirements.

"(E)(i) Within 180 days after notification, the Administrator shall publish a list of data requirements or make a final decision to require no additional data or studies.

"(ii) The list of data requirements and label requirements shall be subject to judicial review under section 16 at the time of publication. The omission of an inert ingredient from the priority list established under paragraph (1) shall not be subject to judicial review under section 16.

"(iii) If a hearing is requested by a registrant, the registrant may contest whether the Administrator properly considered the factors described in subparagraphs (B) and (C).

"(F) On receipt of the additional data for each inert ingredient submitted pursuant to subparagraph (E), the Administrator shall, within 2 years, evaluate the data and take such steps as are appropriate to prevent unreasonable adverse effects on the environment of pesticides containing such inert ingredient, unless additional time is needed.

"(G) Any study submitted under subsection (c)(2)(B) that was conducted with funds that are not public funds, using another statutory authority of the Administrator, shall be treated, for purposes of subsection (c)(1)(D), as having been submitted in support of registration. The person who submitted the study shall be treated as an original data submitter."

SEC. 213. SUBSTITUTION OF INERT INGREDIENTS.

Section 3 (7 U.S.C. 136a) (as amended by section 212 of this Act) is further amended by adding at the end thereof the following new subsection:

"(i) SUBSTITUTION OF INERT INGREDIENTS.—The Administrator shall approve an application to amend the registration of a pesticide to substitute an inert ingredient for an inert ingredient listed under subsection (h)(1), if the Administrator finds, on the basis of similarity in molecular structure to a chemical known to cause significant adverse effects, existing data, or such short-term tests as the Administrator determines are necessary, that the substitute inert ingredient does not pose the same or similar concerns about unreasonable adverse effects on the environment that resulted in the listing of the listed inert ingredient.".

SEC. 214. LABELING OF INERT INGREDIENTS.

Section 3 (7 U.S.C. 136a) (as amended by section 213 of this Act) is further amended by adding at the end thereof the following new subsection:

"(j) LABELING OF INERT INGREDIENTS.—

"(1) AMENDED LABEL.—

"(A) A risk assessment, based on data required under subsection (c)(2) and other au-

thority of the Administrator, shall be performed to determine whether an end use pesticide presents a potential significant hazard from the use of the inert ingredient in question.

"(B) If the risk assessment shows that a significant hazard may result from the use of the inert ingredient in question, the registrant of end use pesticides containing the listed ingredient, at a level that presents the hazard, shall apply, within 90 days of publication of such hazard finding in the Federal Register, for amended registration to change the label of the pesticide to conform with sections 2(n), 2(p), and 2(q).

"(C) Risk assessments shall be subject to review by a scientific review panel to be established by the Administrator for such purpose.

"(2) MISBRANDING.—A pesticide, the ingredient statement of which does not satisfy section 2(n) with respect to a listed inert ingredient, shall not be considered misbranded until a date of manufacture that is 360 days after the publication of the risk assessment indicating a significant hazard may exist for the pesticide containing the inert ingredient, or the date on which the Administrator approves a registration amendment providing for a change in the label of the pesticide to satisfy section 2(n), whichever occurs later.".

SEC. 215. FORMULA STATEMENTS.

Section 3 (7 U.S.C. 136a) (as amended by section 214 of this Act) is further amended by adding at the end thereof the following new subsection:

"(k) FORMULA STATEMENTS.—

"(1) LISTED INERT INGREDIENTS.—Within 120 days of the initial publication of the risk assessment conclusions pursuant to subsection (j)(1), each registrant of a pesticide containing such inert ingredient or ingredients that contributes to a significant hazard from use of the end use pesticide shall make any necessary modifications to the formula statement submitted pursuant to subsection 3(c)(1)(E) to satisfy the requirements of the Administrator with respect to such ingredient or ingredients.

"(2) ALL INERT INGREDIENTS.—Within 240 days of the initial publication of the risk assessment conclusions pursuant to subsection (j)(1), each registrant of a pesticide containing such inert ingredient or ingredients shall apply for amended registration, to make any necessary modifications to the formula statement submitted pursuant to subsection (c)(1)(E) to satisfy the requirements of the Administrator with respect to such ingredient or ingredients."

## TITLE III—CERTIFIED APPLICATORS

SEC. 301. STATE CERTIFICATION.

Section 4(a)(2)(B) (7 U.S.C. 136b(a)(2)(B)) is amended by inserting after "plan" the following: ", including requirements for State enforcement personnel to be certified in the restricted and nonrestricted use pesticide application categories for which the personnel are assigned enforcement responsibility".

SEC. 302. APPLICATOR TRAINING.

Section 4 (7 U.S.C. 136b) is amended by adding at the end thereof the following new subsections:

"(d) COMMERCIAL APPLICATOR CERTIFICATION.—

"(1) CRITERIA.—Notwithstanding subsection (a), in order to be certified as a commercial applicator, an applicant must, at a minimum—

"(A) have undergone training prescribed and administered by the Administrator and the delegate State agency (including training with the use of updated national core material issued within 9 months after the effective date of the Pesticide Reform Act of 1986) on the use of appropriate application and safety procedures, clothing, and protective equipment, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, and the requirements of laws, regulations, and labeling (including training in hazards posed by pesticides to workers, the public health, and the environment) that is conducted by trainers whose minimum competency requirements and range of expertise shall be prescribed by the Administrator or the delegate State agency; and

"(B) have field or industrial plant experience in pesticide use and application.

"(2) EXPERIENCE.—The Administrator or the State lead agency shall establish the specific category of use and related minimum length of experience commensurate with potential risks and exposure to the applicator and the environment, except that such minimum length of service requirement may not exceed 2 years.

"(3) ADDITIONAL TEST.—To receive certification as a commercial applicator, an applicant must, in addition to the requirements of paragraph (1), pass (with at least 70 percent correct) an exam prescribed by the State delegate agency, including topics addressed in the national core material training.

"(e) NONCERTIFIED COMMERCIAL APPLICATOR TRAINING AND REGISTRATION.—To operate as a noncertified commercial applicator working under the direct supervision of a commercial applicator, a person must—

"(1) have undergone basic training prescribed and administered by the Administrator or the delegate State agency (including training with the use of updated national core material issued within 12 months after the effective date of the Pesticide Reform Act of 1986) on the use of appropriate application and safety procedures, clothing, and protective equipment, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, and the requirements of laws, regulations, and labeling (including training in hazards posed by pesticides to workers, the public health, and the environment) that is conducted by trainers whose competency requirements and range of expertise shall be prescribed by the Administrator or the State lead agency; and

"(2) register with the delegate State agency responsible for certifying pesticide applicators by providing to the State agency a signed statement from the trainer and operator stating that the prescribed minimum training standards have been provided to the applicant and received by the operator.

"(f) CERTIFIED AND NONCERTIFIED PRIVATE APPLICATOR TRAINING.—To qualify as a certified or noncertified private applicator, other than as an applicator of antimicrobial or nonrestricted use pesticides to their own or rented property, an applicant must, at a minimum—

"(1) have undergone training based on updated national core material and conducted by trainers whose minimum competency requirement and range of expertise are prescribed by the State lead agency; and

"(2) register with the delegate State agency as required by subsection (e)(2).

"(g) RETRAINING AND RECERTIFICATION.—All applicators, certified or noncertified, must—

"(1) undergo retraining (to be prescribed by the delegate State agency in accordance with updated national core material) on an ongoing basis over a 5-year period; and

"(2) be reaffirmed at the end of the period based on compliance with competency requirements established for each category of applicator in this section.

"(h) UNIFORM TRAINING.—A person shall be considered to have satisfied this section if the person has completed a uniform nationwide course of training for workers that is approved by the Administrator, applies to more than one State, issues credentials to workers on completion, and is subject to verification.

"(i) TRAINING FOR PESTICIDE APPLICATORS AND TRAINERS.—

"(1) IN GENERAL.—The Administrator, in consultation with interested States, shall prescribe minimum requirements for training programs for pesticide applicators and application trainers.

"(2) STATE PROGRAM.—The Administrator shall delegate authority to prescribe and administer a training program under this subsection to any State that has established a program that meets such requirements.

"(3) PRIVATE PROGRAM.—The Administrator or delegate State agency shall approve any privately administered training program under this subsection that the Administrator determines meets such requirements.

"(j) WORKER TRAINING.—Each employee who mixes, loads, or applies a pesticide shall be required to receive training in—

"(1) safety and application procedures to be followed;

"(2) worker, public health, and environmental hazards involved;

"(3) clothing and protective equipment to be used;

"(4) common symptoms of pesticide poisoning;

"(5) the location of emergency medical treatment; and

"(6) applicable laws, regulations, and label requirements pertaining to the pesticide uses.".

## TITLE IV—ADMINISTRATIVE REVIEW; SUSPENSION

SEC. 401. PUBLIC HEARINGS AND SCIENTIFIC REVIEW.

The tenth sentence of section 6(d) (7 U.S.C. 136d(d)) is amended by striking out "90 days thereafter" and inserting in lieu thereof "18 months after issuance of the notice that gave rise to the hearing, or such shorter time specified in subsection (e)(2),".

SEC. 402. CANCELLATION OF REGISTRATION BASED ON FALSE OR INVALID DATA.

Section 6 (7 U.S.C. 136d) is amended by adding at the end thereof the following new subsection:

"(g) CANCELLATION OF REGISTRATION BASED ON FALSE OR INVALID DATA.—

"(1) PREVIOUSLY DETERMINED INVALID DATA.—

"(A) The Administrator shall immediately issue a notice of intent to suspend and to cancel the registration of a pesticide if—

"(i) prior to the effective date of the Pesticide Reform Act of 1986, the Administrator has previously determined that data submitted by a registrant to the Administrator in support of an existing registration were invalid;

"(ii) the data have not been replaced; and

"(iii) the data are important data essential to the determination of the Administrator of whether or not the pesticide may cause unreasonable adverse effects to the environment.

"(B) The Administrator shall not issue a notice of intent to suspend and to cancel the registration of a pesticide if the Administrator and registrant have agreed on a plan for replacement studies under paragraph (2).

"(2) NEW INVALID DATA.—

"(A) If, after the effective date of the Pesticide Reform Act of 1986, the Administrator determines that invalid data have been submitted by a registrant to the Administrator in support of a registration of a pesticide, the Administrator may require either the active ingredient registrant or end use pesticide registrant to submit replacement studies or data on an expedited schedule and with interim progress reports.

"(B) The Administrator shall permit pesticide users to submit replacement studies or data on an expedited schedule and with interim progress reports.

"(C) If no commitment to submit replacement studies or data is forthcoming and the Administrator determines that such action would be in the public interest, taking into account the scope of the invalid data, the Administrator may issue a notice of intent to cancel such registration.

"(3) FALSE DATA.—If a registrant willfully submits material data known to be false in support of the registration of a pesticide, the Administrator shall immediately issue a notice of intent to suspend and cancel such registration.

"(4) HEARING.—

"(A) Any suspension or cancellation under this subsection shall become final and effective at the end of the 30-day period beginning on receipt by the registrant of a notice issued under this section unless during such period a request for a hearing is made by a person adversely affected.

"(B) A hearing under this paragraph shall be conducted in accordance with subparagraph (C), (D), or (E), as appropriate.

"(C) The only matters for resolution at a hearing conducted with respect to action taken under paragraph (1) shall be whether—

"(i) in response to a notice of the Administrator issued under section 3(c)(2)(B) or other formal notice, data previously determined by the Administrator to be invalid—

"(I) have not been replaced by the registrant on the effective date of the Pesticide Reform Act of 1986; or

"(II) are in the process of being replaced on the effective date of such Act but have not been submitted to the Administrator; and

"(ii) the data are important to the registration.

"(D) The only matters for resolution at a hearing conducted with respect to action taken under paragraph (2) shall be whether data are invalid, important, and necessary to adequately determine whether a pesticide may cause unreasonable adverse effects on the environment.

"(E) The only matters for resolution at a hearing conducted with respect to action taken under paragraph (3) shall be whether a registrant willfully submitted important data known to be false.

"(F) A decision after completion of a hearing conducted under this paragraph shall be final.

"(G) Notwithstanding any other provision of this Act, a hearing shall be held, and a determination made, under this subsection within 75 days after the receipt of a request for such hearing.".

SEC. 403. COMPENSATION FOR DATA.

Section 6 (7 U.S.C. 136d) (as amended by section 402 of this Act) is further amended by adding at the end the following new subsection:

"(h) COMPENSATION FOR DATA.—On submission of data as required under this section, the data submitter shall be entitled to be compensated in accordance with section 3(c)(1)(D).".

SEC. 404. VOLUNTARY CANCELLATION.

Section 6 (7 U.S.C. 136d) (as amended by section 403 of this Act) is further amended by adding at the end thereof the following new subsection:

"(i) VOLUNTARY CANCELLATION.—

"(1) REQUESTS.—A registrant may at any time request that any of the product registrations of the registration be canceled or be amended to delete one or more uses.

"(2) NOTICE.—Prior to such cancellation, the Administrator shall publish in the Federal Register a notice of intent to cancel and allow public comment within 60 days of notice.

"(3) CANCELLATION.—The Administrator shall approve such a request unless—

"(A) the product is the subject of a cancellation proceeding under section 6; and

"(B) the Administrator determines that the public interest would be served by disapproving the request and continuing such cancellation proceeding."

## TITLE V—REGISTRATION OF ESTABLISHMENTS

SEC. 501. CONFIDENTIAL RECORDS AND INFORMATION.

Section 7(d) (7 U.S.C. 136e(d)) is amended by inserting "and production locations" after "names".

SEC. 502. MATERIAL SAFETY DATA SHEETS.

Section 7 (7 U.S.C. 136e) is amended by adding at the end the following:

"(e) MATERIAL SAFETY DATA SHEETS.—Any producer operating a registered establishment shall obtain and make available to the public, on request, a material safety data sheet developed under section 3(c)(10) for each active ingredient and listed inert ingredient used in the establishment.".

SEC. 503. CONFIDENTIALITY.

Section 7 (7 U.S.C. 136e) (as amended by section 502 of this Act) is further amended by adding at the end thereof the following new subsection:

"(f) CONFIDENTIALITY.—Other than the name of a pesticide or active ingredient used in producing a pesticide or active ingredient used in producing a pesticide produced, sold or distributed at an establishment, any information submitted to the Administrator, State, or designated State agency pursuant to subsection (c) shall be considered confidential and subject to section 10.".

SEC. 504. INFORMATION REQUESTED.

Section 7 (7 U.S.C. 136e) (as amended by section 503 of this Act) is further amended by adding at the end the following:

"(g) INFORMATION REQUESTED.—Consistent with section 3507(a)(1) of title 44, United States Code, the Administrator shall make efforts to catalog and retrieve data in a manner that eliminates or reduces additional information requests from registrants, particularly requests that require the submission of duplicate confidential data.".

## TITLE VI—BOOKS AND RECORDS

SEC. 601. BOOKS AND RECORDS.

The first sentence of section 8(a) (7 U.S.C. 136f(a)) is amended by inserting ", exporters, and pesticide testing facilities" after "producers".

## TITLE VII—INSPECTION OF ESTABLISHMENTS

SEC. 701. AUTHORITY TO ENTER, INSPECT, AND COPY.

Subsection (a) of section 9 (7 U.S.C. 136g(a)) is amended to read as follows:

"(a) AUTHORITY TO ENTER, INSPECT, AND COPY.—An officer or employee of the United States or of any State, designated by the Administrator, is authorized at reasonable times, as provided by this section—

"(1) to enter any place where any pesticide, active ingredient, or device is distributed or sold, in order to inspect and obtain samples of any pesticide, active ingredient, or device being distributed or sold at such place or of any packaging or labeling of any such pesticide, active ingredient, or device;

"(2) to enter any place where there are located any records required by or under this Act, or any place reported pursuant to section 8(a) as a location where such records are maintained, in order to inspect and obtain copies of such records;

"(3) to enter any pesticide testing facility, in order—

"(A) to inspect the facility and the testing being conducted at the facility; and

"(B) to inspect and obtain copies of any records required by or under the authority of this Act to be maintained by the pesticide testing facility; and

"(4) to enter any place where such officer or employee has probable cause to believe that the Act has been or is being violated by any person other than a person acting in the capacity of a private applicator, in order to inspect such place to obtain evidence of such violation.".

SEC. 702. WARRANTS.

Subsection (b) of section 9 (7 U.S.C. 136g(b)) is amended to read as follows:

"(b) WARRANTS.—An officer or employee of the United States or of any State, designated by the Administrator, is empowered to obtain and to execute warrants authorizing—

"(1) entry for the purposes of this section;

"(2) inspection and copying of all records required under this Act; and

"(3) seizure of any pesticide or device that is in violation of this Act.".

SEC. 703. PROCEDURE.

Section 9 (7 U.S.C. 136g) is amended by adding at the end the following new subsection:

"(d) PROCEDURE.—

"(1) CREDENTIALS AND STATEMENTS.—Before any entry or inspection of any premises not open to the general public is made under this section, the person conducting the inspection shall present to the person in charge of the premises appropriate credentials and a written statement of the reason for the inspection and whether a violation of the law is suspected.

"(2) PROMPTNESS.—Each inspection shall be commenced and completed with reasonable promptness.

"(3) SAMPLES.—If the person conducting the inspection obtains any samples of pesticides or devices, prior to leaving the premises, the inspector shall give to the person in charge of the premises a receipt describing the samples and, if requested and practicable, a portion of each such sample equal in volume or weight to the portion retained. If an analysis of any such sample is made, a copy of the results of such analysis shall be furnished to the person in charge of the premises.".

SEC. 704. COORDINATION.

Section 9 (7 U.S.C. 136g) (as amended by section 703 of this Act) is further amended by adding at the end the following new subsection:

"(e) COORDINATION.—The Administrator shall coordinate actions taken under this section with actions taken under other Federal laws, including the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), for the purpose of avoiding duplication of inspections.".

## TITLE VIII—PROTECTION OF TRADE SECRETS AND OTHER INFORMATION

SEC. 801. DISCLOSURE OF INERT INGREDIENTS PERMITTED.

Section 10(d)(1)(C) (7 U.S.C. 136h(d)(1)(C)) is amended by inserting before the period the following: ", except that the identity of an inert ingredient listed under section 3(h)(1) shall be disclosed in accordance with paragraph (4)".

SEC. 802. DISCLOSURE OF INTENT TO MARKET PESTICIDES.

Section 10(d)(1) (7 U.S.C. 136h(d)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) discloses any information regarding an intent to market a pesticide prior to the start of sales of the pesticide, unless such disclosure is necessary to protect against a suspected unreasonable risk to health or the environment.".

SEC. 803. METHODS OF DISCLOSING INERT INGREDIENTS.

Section 10(d) (7 U.S.C. 136h(d)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) The identity of an inert ingredient may be disclosed by means of—

"(i) the listing of the ingredient on the priority list required by section 3(h)(1); or

"(ii) release of product labels disclosing the identity of an inert ingredient on the priority list.

"(B) The Administrator may continue to require identification of an inert ingredient on a product label pursuant to section 2(n) after the removal of the ingredient from the priority list pursuant to paragraph (4) or (5) of section 3(h) if the Administrator has issued a notice under section 3(c)(6) or (8)."

SEC. 804. DELAY IN PUBLIC NOTIFICATION.

Section 10(d) (7 U.S.C. 136h(d)) (as amended by section 803 of this Act) is further amended by adding at the end the following new paragraph:

"(5)(A) If a registrant demonstrates a future intention to market a registered product and the intention is not a matter of public record, the Administrator may grant a delay in public notification of a registered label, and documents relating to such registration, until the first date of the commercial disclosure of the product by or on behalf of the registrant.

"(B) The registrant shall provide adequate notice in advance of the commercial disclosure of the product so that the Administrator may thereafter disclose the available data subject to this section.

"(C) This paragraph shall not limit the ability of the Administrator to disclose such information if the Administrator determines that disclosure is necessary to protect against an unreasonable adverse effect on health or the environment.".

SEC. 805. DATA DISCLOSURE TO CONTRACTORS.

Subsection (e) of section 10 (7 U.S.C. 136h(e)) is amended to read as follows:

"(e) DISCLOSURE TO CONTRACTORS.—

"(1) Information otherwise protected from disclosure to the public in subsection (b) may be disclosed to a contractor with the United States, a State or State agency, or an employee of the contractor, under such conditions as the Administrator may specify, if, in the opinion of the Administrator, such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States or a State or State agency for the performance of work in connection with this Act.

"(2) The Administrator shall require as a condition of the disclosure of information under this subsection that the person receiving the information take such security precautions respecting the information as the Administrator shall by regulation prescribe.".

SEC. 806. DATA DISCLOSURE TO STATES.

Section 10 (7 U.S.C. 136h) is amended by adding at the end thereof the following new subsection:

"(h) DATA DISCLOSURE TO STATES.—

"(1) Notwithstanding any limitation contained in this section or any other provision of law, information reported to or otherwise obtained by the Administrator under this Act shall be made available to any State or State agency that enters into a cooperative agreement with the Administrator in accordance with this subsection.

"(2) At any time, the Governor of a State or the duly authorized head of a State agency may submit a written request to enter into a cooperative agreement with the Administrator for access to specified information obtained under this Act. Such request shall include—

"(A) a description of the types of information for which access is sought;

"(B) an explanation of how the availability of such information relates to protection of health and the environment; and

"(C) proof that no laws or regulations of the State require disclosure of the data to any person, organization, or entity who would not be entitled to obtain the data from the Administrator under this Act.

"(3)(A) Within 90 days of receiving the request, the Administrator shall grant the request if the Administrator determines that the requestor has complied with paragraph (2).

"(B) A denial of a request by the Administrator shall include a written explanation stating the specific reasons for such denial.

"(C) On the granting of a request and the execution or modification of an agreement, the Administrator shall publish a notice in the Federal Register identifying the requestor and the nature of the information sought.

"(D) The agreement shall become effective 30 days after publication in the Federal Register.

"(4)(A) A cooperative agreement under this subsection may be in effect for up to 3 years.

"(B) Not less than 90 days before the expiration of an agreement, a requestor seeking renewal of an agreement shall provide a written certification that reaffirms that the requestor has complied with paragraph (2).

"(C) If a requestor acts in a timely manner, the agreement shall remain in effect until the Administrator renews the agreement.

"(D) Not less than 90 days before the expiration of an agreement, a requestor seeking modification of an agreement must comply with paragraph (2) to modify the agreement.

"(E) The Administrator shall act on a request for modification in accordance with paragraph (3).

"(5)(A)(i) Any current or former officer or employee of the United States or any State or State agency who—

"(I) by virtue of such employment or official position has obtained possession of, or has access to, material the disclosure of which is prohibited by this subsection;

"(II) knowing that disclosure of such material is prohibited by this subsection, willfully discloses the material in any manner to any person not entitled to receive such material; and

"(III) solicits such disclosure or obtains such material knowing that the release is unlawful,

shall be guilty of a misdemeanor and fined not more than $25,000 or imprisoned for not more than 1 year, or both.

"(ii) Section 1905 of title 18, United States Code, shall not apply with respect to the publishing, divulging, disclosure, or making known, or making available, information reported or otherwise obtained under this subsection.

"(B) For purposes of this paragraph—

"(i) any contractor with the United States or State or State agencies who is furnished information as authorized by subsection (a)(2), and any employee of any such contractor, shall be considered to be an employee of the United States; and

"(ii) any employee or any contractor or any employee of any such contractor of any State or State agency who is furnished information under a cooperative agreement with the Administrator, shall be considered to be an employee of the United States.".

SEC. 807. NOTICE OF REQUEST FOR DATA DISCLOSURE.

Section 10 (7 U.S.C. 136h) (as amended by section 806 of this Act) is further amended by adding at the end thereof the following new subsection:

"(i) NOTICE.—If the Administrator receives a request for data required or submitted under this Act, the Administrator shall provide the data submitter with notice of the request within 7 working days after receipt of the request.".

## TITLE IX—STANDARDS APPLICABLE TO PESTICIDE APPLICATORS

SEC. 901. STANDARDS APPLICABLE TO PESTICIDE APPLICATORS.

Section 11 (7 U.S.C. 136i) is amended by adding at the end thereof the following new subsections:

"(c) RECORDS OF COMMERCIAL APPLICATORS.—

"(1) PESTICIDE APPLICATIONS.—A commercial applicator shall maintain a record of each pesticide application, including the identify and amount of the pesticides applied and the date and location of the application.

"(2) DURATION.—A commercial applicator shall maintain a record required under this subsection for a period of 2 years after the application.

"(d) RECORDS OF PESTICIDE DEALERS.—

"(1) PESTICIDE SALES.—A pesticide dealer shall maintain a record of each pesticide sale, other than the sale of an antimicrobial or nonrestricted use pesticide, to a private

or commercial applicator. Such record shall include the identity of the pesticide, to whom the pesticide was distributed or sold, the date of the distribution or sale, and the amount of distribution or sale.

"(2) DURATION.—A pesticide dealer shall maintain the records required under this subsection for a period of 3 years after the sale.

"(e) INSPECTION OF RECORDS.—For purposes of enforcing this Act, on request of the Administrator or an officer or employee of a State, a commercial applicator and a pesticide dealer shall furnish or permit the Administrator, officer, or employee at all reasonable times to have access to, and to copy, records maintained in accordance with subsections (c) and (d).

"(f) ACCESS TO RECORDS.—

"(1) IN GENERAL.—The records required to be kept under subsections (c) and (d) shall be accessible within 30 days after an application or sale.

"(2) CONFIDENTIAL BUSINESS INFORMATION.—Information obtained that identifies the location of application sites, customers, types of pesticides used or sold, amounts used or sold, dates and locations of sales, or other information that may provide a competitive advantage if disclosed shall be considered confidential business information under this Act.

"(3) EMPLOYEE ACCESS.—An employee shall have access to information records maintained under this section that directly relate to the employment duties of the employee.

"(4) CUSTOMER ACCESS.—A customer shall have access to information records maintained under this section that directly relate to pesticide applications for which the customer has contracted.".

## TITLE X—UNLAWFUL ACTS

SEC. 1001. DISTRIBUTION OR SALE OF CERTAIN PESTICIDES.

Section 12(a)(1) (7 U.S.C. 136j(a)(1)) is amended—

(1) in the matter preceding clause (A), by striking out "distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person" and inserting in lieu thereof "to distribute or sell to any person"; and

(2) by striking out clause (A) and inserting in lieu thereof the following new clause:

"(A) any pesticide product that is not registered under section 3 or whose registration has been canceled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this Act;".

SEC. 1002. OTHER UNLAWFUL ACTS.

Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended—

(1) by striking out clause (B) and inserting in lieu thereof the following new clause:

"(B) to refuse to—

"(i) prepare, maintain, or submit any records required under this Act;

"(ii) submit any reports required by this Act; or

"(iii) allow any inspection, copying of records, or sampling authorized by this Act;";

(2) in clause (F), by striking out "to make" and inserting in lieu thereof "to distribute, sell, or make";

(3) in clause (J), by striking out "section 6" and inserting in lieu thereof "this Act";

(4) by striking out clause (K) and inserting in lieu thereof the following new clause:

"(K) to violate any cancellation order issued under this Act;";

(5) in clause (M), by striking out "section 8" and inserting in lieu thereof "this Act";

(6) by striking out "or" at the end of clause (O);

(7) by striking out the period at the end of clause (P) and inserting in lieu thereof a semicolon; and

(8) by adding at the end thereof the following new clauses:

"(Q) to willfully falsify all or part of any data submitted pursuant to this Act, or to willfully submit such false data knowing it to be false;

"(R) to violate any regulation prescribed by the Administrator to carry out good laboratory practice standards;

"(S) to distribute or sell, to make available for use, or to use any pesticide product that is the subject of an exemption under section 18 in violation of the terms of the exemption;

"(T) who is a registrant, an applicant for registration, or a pesticide testing facility, to falsify or misrepresent any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion, or opinion formed if such representation is made to the Administration, or is made in any document or record that the person making the representation knows will be furnished to the Administrator or will become a part of any records required to be maintained under this Act;

"(U) who is a registrant, an applicant for registration, a pesticide testing facility, a distributor or seller of any pesticide, a commercial applicator, or a hired applicator of any pesticide, to violate any regulation issued under this Act; or

"(V) to apply a pesticide as a commercial or private applicator, certified or uncertified, without receiving training required under this Act.".

SEC. 1003. LIABILITY FOR PESTICIDE USE DAMAGE.

Section 12 (7 U.S.C. 136j) is amended by adding at the end thereof the following new subsection:

"(c) LIABILITY FOR PESTICIDE USE DAMAGE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an agricultural producer or applicator shall not be liable in any action brought under this Act or for damages caused by pesticide use unless the producer or applicator acted unreasonably with regard to such pesticide use or application.

"(2) LABEL APPLICATION.—Proof that a pesticide application was made in accordance with the label of the pesticide shall be presumptive evidence that the applicator acted reasonably.".

SEC. 1004. ACTS OF AGENTS.

Section 12 (7 U.S.C. 136j) (as amended by section 1003 of this Act) is further amended by adding at the end the following:

"(d) ACTS OF AGENTS.—When construing and enforcing this Act, the act, omission, or failure of any officer, employee, agent, or other person acting for or employed by any person shall be considered the act, omission, or failure of such person as well as that of the person employed.".

## TITLE XI—PENALTIES

SEC. 1101. CIVIL PENALTIES.

Section 14(a) (7 U.S.C. 136l(a)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commercial applicator," the following: "applicant for restricted use pesticide registration, pesticide testing facility,";

(B) by striking out "distributor" and inserting in lieu thereof "person who distributes or sells any pesticide or device";

(C) by striking out "$5,000" and inserting in lieu thereof "$10,000"; and

(D) by adding at the end thereof "For purposes of this subsection, each day after citation for such a violation that a pesticide registrant or distributor continues to commit such a violation shall constitute a separate offense.";

(2) in paragraph (2)—

(A) by striking out "$1,000" each place it appears and inserting in lieu thereof "$2,000"; and

(B) by striking out "$500" and inserting in lieu thereof "$1,000";

(3) in paragraph (3), by adding at the end thereof the following new sentence: "If the person neither resides nor has a principal place of business in the United States, the Administrator may designate a site for the hearing in the United States that is reasonably convenient for the parties."; and

(4) in the first sentence of paragraph (4), by inserting "any economic benefit resulting from the violation," after "to continue in business,".

SEC. 1102. CRIMINAL PENALTIES.

Section 14(b) (7 U.S.C. 136l(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commercial applicator," the following: "applicant for restricted use pesticide registration, pesticide testing facility,";

(B) by striking out "distributor" and inserting in lieu thereof "person who distributes or sells any pesticide or device,"; and

(C) by striking out "one year" and inserting in lieu thereof "2 years";

(2) in paragraph (2)—

(A) by striking out "$1,000" and inserting in lieu thereof "$2,000"; and

(B) by striking out "30 days" and inserting in lieu thereof "1 year";

(3) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) DISCLOSURE OF INFORMATION.—

"(A) Any person who uses or reveals information relative to the formula of a product acquired under section 3, shall be fined not more than $25,000 or imprisoned for not more than 3 years, or both.

"(B) Any person, including any officer, contractor, contractor employee, or employee of the United States or a State or State agency who—

"(i) is granted access to data under section 3(c)(9) or (10); and

"(ii) in furtherance of a commercial purpose involving the production, registration, distribution, or sale of a pesticide—

"(I) knowingly violates such section; or

"(II) knowingly allows data to be made available in violation of such section,

shall be fined not more than $100,000 or imprisoned for not more than 3 years, or both."; and

(4) by striking out paragraph (4).

SEC. 1103. SUBPOENAS.

Section 14 (7 U.S.C. 136l) is amended by adding at the end thereof the following new subsection:

"(c) SUBPOENAS.—

"(1) ISSUANCE.—The Administrator may—

"(A) in connection with an administrative proceeding under subsection (a), issue a subpoena to compel the attendance and testimony of a witness or a subpoena duces tecum; and

"(B) request the Attorney General to bring an action to enforce any subpoena issued under this subsection.

"(2) JURISDICTION.—A district court of the United States shall have jurisdiction to enforce such subpoena and impose a sanction.".

TITLE XII—ADMINISTRATIVE PROCEDURE; JUDICIAL REVIEW

SEC. 1201. REVIEW OF REGULATIONS.

Section 16 (7 U.S.C. 136n) is amended by adding at the end thereof the following new subsection:

"(e) REVIEW OF REGULATIONS.—

"(1) IN GENERAL.—Any regulation issued under this Act and first published in the Federal Register in final form after the effective date of the Pesticide Reform Act of 1986, or any refusal to modify or rescind such a regulation, shall be reviewable only as provided by this subsection.

"(2) COURT.—Any person may obtain judicial review of such a regulation or refusal by filing a petition for review in the United States court of appeals for the circuit in which the person resides or has its principal place of business or in the United States Court of Appeals for the District of Columbia.

"(3) REVIEW OF ISSUED REGULATIONS.—Any petition under this subsection for review of a regulation shall be filed within 90 days from the date of promulgation of the regulation as determined by the Administrator in the Federal Register.

"(4) REVIEW OF REFUSAL TO MODIFY OR RESCIND.—Any petition under this subsection for review of a refusal to modify or rescind a regulation shall be filed within 90 days after such refusal.

"(5) SCOPE OF REVIEW.—The scope of review shall be as specified in section 706 of title 5, United States Code.

"(6) STAYS.—The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court to the contrary, operate as a stay of the regulation.

"(7) JUDICIAL REVIEW.—Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any suspension, cancellation, or denial proceeding under this Act, or any appeal therefrom, nor in any proceeding under section 13, 14, or 16(c) or any appeal therefrom.".

TITLE XIII—IMPORTS AND EXPORTS

SEC. 1301. PESTICIDES AND DEVICES INTENDED FOR EXPORT.

(a) IN GENERAL.—Subsection (a) of section 17 (7 U.S.C. 136o(a)) is amended to read as follows:

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—

"(1) VIOLATIONS.—Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be considered in violation of this Act when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 2(p), subparagraphs (A), (C), (D), (E), (G), (H), and (I) of section 2(q)(1), subparagraphs (A), (B), (C)(i), (C)(iii), and (D) of section 2(q)(2), sections 7 and 8, and paragraphs (2), (3), (4), (5), and (6) of section 17(a).

"(2) EXPORTS.—

"(A) This paragraph applies to a pesticide, device, or active ingredient—

"(i) for which a restricted use classification has become effective under section 3;

"(ii) for which a cancellation or suspension has become effective under section 6;

"(iii) the registration of which has been voluntarily withdrawn by the registrant, if such withdrawal was associated with concern over potential adverse public health or environmental effects; or

"(iv) that is not registered under section 3 for any use.

"(B) No pesticide, device, or active ingredient described in subparagraph (A) may be exported to any foreign country by any person unless, at least 30 days prior to the first shipment each year of such pesticide to such country, such person has—

"(i) notified, pursuant to paragraph (3), the person importing the pesticide and the appropriate government regulatory office in the importing country;

"(ii) received written evidence that the notification was delivered to the appropriate government regulatory office; and

"(iii) submitted a copy of the notification in English and evidence of delivery to the Administrator.

"(C) Documents referred to in subparagraph (B) shall be made available to the public, on request.

"(3) NOTIFICATION.—The notification required pursuant to paragraph (2) shall be made in an appropriate language and shall contain the following information:

"(A) The name of the pesticide and the common and chemical names of the active ingredient.

"(B) The name and address of the person exporting the pesticide.

"(C) The name and address of the person importing the pesticide.

"(D) The name and address of the appropriate government regulatory office in the importing country.

"(E) A statement of the reasons why the pesticide was canceled, suspended, voluntarily withdrawn, is not registered in the United States, or has been classified for restricted use, and the list of restrictions.

"(F) The name and address of the office of the United States Environmental Protection Agency that, on request by the importer or official of the importing country, can provide additional information on the pesticide.

"(4) LABELS.—

"(A) The label of pesticides intended for export from the United States shall be written in an appropriate language.

"(B) Except as provided in section 2(q)(1)(H), such label may not refer to compliance with the laws of the United States unless the label also contains or is accompanied by a description of the relevant requirements of such laws.".

(b) EFFECTIVE DATES.—

(1) Paragraphs (2) and (3) of section 17(a) (as amended by subsection (a) of this section) shall become effective 90 days after the date of enactment of this Act.

(2) Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall publish in the Federal Register a list of the names, addresses, and international telecommunications codes of appropriate regulatory offices required to receive notices under section 17(a)(2)(B).

(3) Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Administrator shall revise the list required under paragraph (2).

(4) Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register preliminary guidelines regarding—

(A) the form of the notification required under section 17(a)(2);

(B) translation of the notification and labels required under such section into the appropriate language;

(C) retention of shipping documents and other pertinent records by exporters under such section; and

(D) procedures for public access to documents submitted by exporters under such section.

(5) Not later than 1 year after the date of enactment of this Act, the Administrator shall issue such regulations as are necessary to carry out section 17(a) (2) and (3) and this subsection.

SEC. 1302. CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.

Subsection (b) of section 17 (7 U.S.C. 136o(b)) is amended to read as follows:

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENT.—

"(1) ISSUANCE.—If a registration, or a cancellation or suspension of the registration, of a pesticide becomes effective, or ceases to be effective, or a pesticide is classified for restricted use, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies.

"(2) CONTENTS.—Such notification shall, on request, include the reasons for the cancellation, suspension, or restriction and information concerning other pesticides that are registered under section 3 and that could be used in lieu of such pesticide.".

SEC. 1303. COOPERATION IN INTERNATIONAL EFFORTS.

Subsection (d) of section 17 (7 U.S.C. 136o(d)) is amended to read as follows:

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator shall—

"(1) in cooperation with the Department of State, other appropriate Federal agencies, and nongovernmental and international organizations, actively participate in international efforts to develop improved pesticide research; and

"(2) report to Congress annually on the activities conducted to comply with this subsection and the results thereof.".

TITLE XIV—RESEARCH AND MONITORING

SEC. 1401. RESEARCH.

Subsection (a) of section 20 (7 U.S.C. 136r(a)) is amended to read as follows:

"(a) RESEARCH.—

"(1) IN GENERAL.—The Administrator shall undertake such research as may be necessary to carry out this Act, including research by grant or contract with other Federal agencies, universities, or other entities or persons.

"(2) INTEGRATED PEST MANAGEMENT.—The Administrator shall conduct research into integrated pest management in cooperation with the Secretary of Agriculture.

"(3) DUPLICATION.—The Administrator shall ensure that research conducted under this subsection does not duplicate research being undertaken by any other Federal agency. Such agency may not be required to duplicate or supplement research already reviewed and accepted by the Administrator in the course of registration and the finding of no unreasonable adverse impact resulting from the use of registered material.".

## TITLE XV—DELEGATION AND COOPERATION

SEC. 1501. EFFECT ON CERTAIN OTHER LAWS.

Section 22 (7 U.S.C. 136t) is amended by adding at the end the following new subsection:

"(c) EFFECT ON CERTAIN OTHER LAWS.—

"(1) IN GENERAL.—In exercising any authority under this Act, the Administrator shall not, for the purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

"(2) COORDINATION.—The Administrator and the Secretary of Labor shall coordinate efforts to regulate pesticide use in the workplace so as to minimize burdens on regulated persons.".

## TITLE XVI—STATE COOPERATION, AID, AND TRAINING

SEC. 1601. AUTHORIZATION FOR APPROPRIATIONS.

(a) IN GENERAL.—Section 23 (7 U.S.C. 136u) is amended—

(1) in subsection (a), by striking out the second and third sentences; and

(2) by adding at the end thereof the following new subsection:

"(d) AUTHORIZATION FOR APPROPRIATIONS.—

"(1) CERTIFIED APPLICATOR TRAINING.—

"(A) There are authorized to be appropriated for the fiscal year ending September 30, 1987, and each fiscal year thereafter, such sums as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed to under cooperative agreements, of conducting training programs for certification of applicators during such fiscal year.

"(B) Funds shall be distributed among States and Indian tribes on a formula basis, as determined by the Secretary of Agriculture and the Administrator.

"(2) PESTICIDE CERTIFICATION AND LICENSING PROGRAMS.—

"(A) There are authorized to be appropriated for the fiscal year ending September 30, 1987, and each fiscal year thereafter, such sums as may be necessary—

"(i) for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed to under cooperative agreements, of conducting pesticide certification and licensing programs during such fiscal year; and

"(ii) in the case of a State, for administering the State plan of each State approved under section 4(a)(2).

"(B) Funds shall be distributed among the States and Indian tribes on a formula basis as determined by the Administrator.

"(3) APPROPRIATED AMOUNTS.—

"(A) The total amount authorized to be appropriated under paragraphs (1) and (2) may not be less than $5,000,000 for each fiscal year.

"(B) If funds sufficient to pay 50 percent of the costs under paragraphs (1) and (2) for any year are not appropriated, the share of each State or Indian tribe shall be reduced in a like proportion in allocating available funds.

"(4) COORDINATION.—States conducting training and certification programs under State plans shall coordinate such programs to assure that standards for certification of applicators of pesticides are attained and maintained and prescribed by the Administrator under section 4.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1986.

## TITLE XVII—AUTHORITY OF STATES

SEC. 1701. PESTICIDE SALE OR USE.

(a) IN GENERAL.—Subsection (a) of section 24 (7 U.S.C. 136v(a)) is amended to read as follows:

"(a) SALE OR USE.—A State, but not a political subdivision of a State, may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent that the regulation does not permit any sale or use prohibited by this Act, except that—

"(1) a State shall not make any lack of essentiality a criterion for regulating the sale or use of a pesticide; and

"(2) a State shall not establish any tolerance for a pesticide residue that is different from, or in addition to, a tolerance for the residue established under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

(b) CLERICAL AMENDMENT.—Section 24(b) is amended by inserting after the subsection designation the following: "LABELING OR PACKAGING.—".

SEC. 1702. ADDITIONAL USES.

(a) IN GENERAL.—Section 24(c) (7 U.S.C. 136c(v)) is amended by striking out "(c) and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(c) ADDITIONAL USES.—

"(1) SPECIAL LOCAL NEEDS.—

"(A) In addition to regulating the sale or use of federally registered pesticides pursuant to subsection (a), a State may provide registration for additional uses of federally registered pesticides formulated for distribution and use within the State to meet special local needs.

"(B) Such registration shall be considered registration under section 3 for all purposes under this Act, but shall authorize distribution and use only within such State.

"(C) Such registration shall terminate, without further action by the Administrator, on the earlier of—

"(i) the end of any period established by the State for the registration of the use; or

"(ii) 10 days after the date the Administrator publishes in the Federal Register a notice stating that the State that issued the registration has informed the Administrator that the State no longer desires the registration to continue in effect.".

(b) CLERICAL AMENDMENTS.—Section 24(c) is amended—

(1) by making the margins for paragraphs (2) through (4) the same as the margin for paragraph (1) (as amended by subsection (a));

(2) in paragraph (2), by inserting "DISAPPROVAL.—" after the paragraph designation;

(3) in paragraph (3), by inserting "TOLERANCES OR EXEMPTIONS.—" after the paragraph designation; and

(4) in paragraph (4), by inserting "CONTROLS.—" after the paragraph designation.

SEC. 1703. DIFFERENCES IN USAGE AND RISK.

Section 24 (7 U.S.C. 136v) is amended by adding at the end the following new subsection:

"(d) DIFFERENCES IN USAGE AND RISK.—In promulgating any regulations, policies, or protocols pertaining to the sale or use of pesticides within a State, the State shall take into account the difference in concept and usage between various classes of pesticides and the differences in environmental risk and the appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.".

SEC. 1704. LOW VOLUME NONFOOD PESTICIDE USE.

Section 24 (7 U.S.C. 136v) (as amended by section 1703 of this Act) is further amended by adding at the end the following new subsection:

"(e) LOW VOLUME NONFOOD PESTICIDE USE.—

"(1) IN GENERAL.—

"(A) Any person may petition the Administrator to conduct a rule making on the record after an opportunity for a hearing in accordance with subchapter II of chapter 5 of title 5, United States Code, to amend requirements, regulations, or policies established under this Act governing low volume nonfood pesticide uses.

"(B) The Administrator shall publish notice of the petition in the Federal Register, and conduct a rule making, on a showing by the petitioner that the potential market for the low volume nonfood pesticide use in question is too small to warrant the cost of complying with the regulation.

"(2) INFORMAL RULE MAKING.—Notwithstanding paragraph (1), the Administrator may conduct rule making under paragraph (1) in accordance with the first two sentences of section 553 of title 5, United States Code.

"(3) CRITERIA.—

"(A) The criteria for granting or denying a request of a petitioner shall be whether or not the proposed amendment will cause an unreasonable risk to man or the environment.

"(B) The Administrator and the petitioner, in consultation with other interested parties, may establish an innovative solution to the problems raised in a petition filed under this subsection (including the amendment or exemption from certain requirements or policies) that is consistent with subparagraph (A).

"(4) DURATION.—Unless specified as part of the outcome of the rule making, an amendment to a low volume nonfood use granted under this subsection shall terminate after 2 years. After such termination, the petitioner may re-petition the Administrator in accordance with this subsection.

"(5) DESCRIPTION.—

"(A) If the Administrator decides that an amended use may be permitted under this subsection, the Administrator shall publish a notice of the decision in the Federal Register.

"(B) The Administrator shall prepare a one-page description of the amended use and provide notice of the availability of the description in the notice published under subparagraph (A).

"(C) To maintain an amended use under this subsection, the applicator must make available the description and post a copy of the description at the site of each application of the amended use.".

## TITLE XVIII—AUTHORITY OF ADMINISTRATOR

SEC. 1801. CONGRESSIONAL REVIEW OF RULES AND REGULATIONS.

Section 25(a)(4) (7 U.S.C. 136w(a)(4)) is amended—

(1) in the second sentence of subparagraph (A)—

(A) by striking out "both Houses of Congress adopt a concurrent resolution" and inserting in lieu thereof "a joint resolution is enacted";

(B) by striking out "That Congress disapproves the" and inserting in lieu thereof "The"; and

(C) by inserting "is disapproved" before the closed quotation marks; and

(2) in the first sentence of subparagraph (B), by striking out "concurrent resolution" and inserting in lieu thereof "joint resolution".

SEC. 1802. SCIENTIFIC ADVISORY PANEL.

Section 25(d) (7 U.S.C. 136w(d)) is amended—

(1) in the first sentence, by striking out "The" and inserting in lieu thereof "Except when a referral is made pursuant to an interim administrative review in section 3(c)(8)(C) to the Scientific Advisory Panel established by this subsection, the"; and

(2) in the eighteenth sentence, by striking out "1987" and inserting in lieu thereof "1991".

## TITLE XIX—STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1901. STATE PRIMARY ENFORCEMENT RESPONSIBILITY.

(a) IN GENERAL.—Subsection (a) of section 26 (7 U.S.C. 136w-1(a)) is amended to read as follows:

"(a) STATE RESPONSIBILITY.—

"(1) CRITERIA.—For purposes of this Act, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

"(A) has adopted adequate pesticide use laws and regulations, except that the Administrator may not require a State to have pesticide use laws that are more stringent than this Act;

"(B) has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations;

"(C) will keep records necessary to provide an annual programmatic review showing compliance with clauses (A) and (B);

"(D) will report emergency conditions to the Administrator at the earliest practical date.

"(2) COORDINATION.—For purposes of this section, the term 'primary enforcement responsibility' shall include primary enforcement responsibility over an action that has been proposed by a State and approved by the Administrator, including the banning, seizure and cancellation of a registered product. The Administrator and the State shall coordinate actions affecting registered products.".

(b) CLERICAL AMENDMENTS.—Section 26 is amended—

(1) in subsection (b), by inserting "STATE PLANS.—" after the subsection designation; and

(2) in subsection (c), by striking out "the" after the subsection designation and inserting in lieu thereof "ADMINISTRATOR RESPONSIBILITY.—The".

SEC. 1902. CERTIFICATION IN PESTICIDE USE APPLICATIONS.

Section 26 (7 U.S.C. 136w-1) is amended by adding at the end the following new subsection:

"(d) CERTIFICATION IN PESTICIDE USE APPLICATIONS.—To enforce requirements of this Act with respect to restricted and nonrestricted use pesticide applications, an employee of the Environmental Protection Agency must be certified in the State for the category of such applications for which the employee is assigned enforcement responsibility.".

SEC. 1903. POLITICAL SUBDIVISIONS.

Section 26 (7 U.S.C. 136w-1) (as amended by section 1902 of this Act) is amended by adding at the end the following new subsection:

"(e) POLITICAL SUBDIVISIONS.—This section does not extend enforcement authority or responsibility to any political subdivision of a State."

## TITLE XX—FAILURE BY THE STATE TO ASSURE ENFORCEMENT OF STATE PESTICIDE USE REGULATIONS

SEC. 2001. STATE ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Subsection (a) of section 27 (7 U.S.C. 136w-2) is amended to read as follows:

"(a) COMPLAINTS.—

"(1) REFERRAL.—On receipt of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of this Act, the Administrator shall refer the matter to the appropriate State officials for investigation of the matter consistent with this Act.

"(2) INVESTIGATION.—As soon as practicable after a complaint is filed and in no event later than 30 days after the filing of the complaint, the State shall commence appropriate investigative action.

"(3) ACTION BY ADMINISTRATOR.—If the State has not commenced appropriate enforcement action within 120 days of the filing of the complaint, the Administrator may act on the complaint or information to the extent authorized under this Act.".

(b) CLERICAL AMENDMENTS.—Section 27 is amended—

(1) in subsection (b), by inserting "RESCISSION.—" after the subsection designation; and

(2) in subsection (c), by inserting "EMERGENCIES.—" after the subsection designation.

## TITLE XXI—DATA COLLECTION AND RETRIEVAL SYSTEMS

SEC. 2101. DATA COLLECTION AND RETRIEVAL SYSTEMS.

The Act is amended—

(1) by redesignating section 31 (7 U.S.C. 136y) as section 32; and

(2) by inserting after section 30 the following new section:

"SEC. 31. DATA COLLECTION AND RETRIEVAL SYSTEMS.

"(a) DATA COLLECTION SYSTEM.—

"(1) IN GENERAL.—In consultation with a committee established by the Administrator within the Environmental Protection Agency, the Administrator shall design and implement an efficient system within the Agency for the collection, dissemination (to other Federal and State departments and agencies), and use of data submitted to the Administrator under this Act.

"(2) ADVISORY COMMITTEE.—The Administrator and the committee established under paragraph (1) shall solicit advice from data users outside the Federal Government by means of an advisory committee that shall consist of representatives from private groups, State governments and organizations, industry, and other appropriate representatives.

"(b) DATA RETRIEVAL SYSTEM.—

"(1) IN GENERAL.—In consultation and cooperation with the Secretary of Agriculture and the heads of other appropriate Federal and State departments and agencies design, the Administrator shall design and implement an efficient and effective system for the retrieval of pesticidal, toxicological, and other scientific data that could be useful to the Administrator in carrying out this Act.

"(2) AVAILABILITY.—The Administrator shall make the system available to all Federal and State departments and agencies with responsibilities in the area of regulation or study of pesticides and the effect of pesticides on man and the environment.

"(c) INDEXING.—In designing and implementing the systems required by subsections (a) and (b), the Administrator shall ensure that information submitted before or after the effective date of the Pesticide Reform Act of 1986 is indexed by pesticide name, Chemical Abstracts Service registry number, plant sites by State, and submitter, so that such information may be retrieved in a timely and useful manner.

"(d) CONFIDENTIALITY.—Dissemination of information and data collected under this section to any State or State agencies shall be subject to section 10.

"(e) REPORT.—Not later than 24 months after the effective date of the Pesticide Reform Act of 1986, the Administrator shall submit a report to Congress on—

"(1) progress in designing and implementing the systems required by subsections (a) and (b); and

"(2) the indexing of information in accordance with subsection (c).

"(f) COMPLETION.—Not later than 36 months after the effective date of the Pesticide Reform Act of 1986, the Administrator shall complete the design and implementation of the system required by this section.".

## TITLE XXII—AUTHORIZATION OF APPROPRIATIONS

SEC. 2201. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 32 (as redesignated by section 2101 of this Act) is amended to read as follows:

"SEC. 32. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this Act $69,433,100 for the fiscal year ending September 30, 1987, and such sums as may be necessary for each of the fiscal years September 30, 1988, through September 30, 1991.".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on October 1, 1986.

## TITLE XXIII—TECHNICAL AMENDMENTS

SEC. 2301. TABLE OF CONTENTS.

The table of contents contained in section 1(b) (7 U.S.C. prec. 121) is amended—

(1) by adding at the end of the items relating to section 2(e) the following:

"(5) Noncertified commercial applicator.
"(6) Competent person.";

(2) by striking out the item relating to section 2(n) and inserting in lieu thereof the following:

"(n) Ingredient statement.
"(1) In general.
"(2) Common name.";

(3) by adding at the end of the items relating to section 2 the following:

"(ff) Antimicrobial.
"(gg) Importing country.
"(hh) Low volume nonfood pesticide use.
"(ii) Material safety data sheets.
"(jj) Outstanding data requirement.
"(1) In general.
"(2) Factors.
"(kk) Pesticide dealer.
"(ll) Pesticide product.
"(mm) Pesticide testing facility.
"(nn) Political subdivision of a State.
"(oo) Terms of registration.
"(pp) To distribute or sell.";

(4) by adding at the end of the items relating to section 3(c) the following:

"(9) Preregistration access to data.
"(10) Material safety data sheets.";

(5) by striking out the item relating to section 3(g) and inserting in lieu thereof the following:

"(g) Reregistration of pesticides.
"(1) In general.
"(2) Lists of pesticide active ingredients.
"(3) Priority.
"(4) Removal.
"(5) Notification.
"(6) Judicial review.
"(7) Data requirements.
"(8) Filling data requirements.
"(9) Suspension.
"(10) Reregistration.
"(11) Compensation.
"(12) Lack of essentiality.";

(6) by adding at the end of the items relating to section 3 the following:

"(h) Priority list for inert ingredients.
"(1) Establishment.
"(2) Publication of list.
"(3) Judicial review.
"(4) Removal of ingredients involving administrative reviews.
"(5) Removal of ingredients involving additional data.
"(6) Additional data.
"(i) Substitution of inert ingredients.
"(j) Labeling of inert ingredients.
"(1) Amended label.
"(2) Misbranding.
"(k) Formula statements.
"(1) Listed inert ingredients.
"(2) All inert ingredients.";

(7) by adding at the end of the items relating to section 4 the following:

"(d) Commercial applicator certification.
"(1) Criteria.
"(2) Experience.
"(3) Additional test.
"(e) Noncertified commercial applicator training and registration.
"(f) Certified and noncertified private applicator training.
"(g) Retraining and recertification.
"(h) Uniform training.
"(i) Training for pesticide applicators and trainers.
"(1) In general.
"(2) State program.
"(3) Private program.
"(j) Worker training.";

(8) by adding at the end of the items relating to section 6 the following:

"(g) Cancellation of registration based on false or invalid data.
"(1) Previously determined invalid data.
"(2) New invalid data.
"(3) False data.
"(4) Hearing.
"(h) Compensation for data.
"(i) Voluntary cancellation.
"(1) Requests.
"(2) Notice.
"(3) Cancellation.";

(9) by adding at the end of the items relating to section 7 the following:

"(e) Material safety data sheets.
"(f) Confidentiality.
"(g) Information requested.";

(10) by striking out the item relating to section 9(a) and inserting in lieu thereof the following:

"(a) Authority to enter, inspect, and copy.";

(11) by adding at the end of the items relating to section 9 the following:

"(d) Procedure.
"(1) Credentials and statements.
"(2) Promptness.
"(3) Samples.
"(e) Coordination.";

(12) by adding at the end of the items relating to section 10 the following:

"(h) Data disclosure to States.
"(i) Notice.";

(13) by adding at the end of the items relating to section 11 the following:

"(c) Records of commercial applicators.
"(1) Pesticide applications.
"(2) Duration.
"(d) Records of pesticide dealers.
"(1) Pesticide sales.
"(2) Duration.
"(e) Inspection of records.
"(f) Access to records.
"(1) In general.
"(2) Confidential business information.
"(3) Employee access.
"(4) Customer access.";

(14) by adding at the end of the items relating to section 12 the following:

"(c) Liability for pesticide use damage.
"(1) In general.
"(2) Label application.
"(d) Acts of agents.";

(15) by striking out the item relating to section 14(b)(4);

(16) by adding at the end of the items relating to section 14 the following:

"(c) Subpoenas.
"(1) Issuance.
"(2) Jurisdiction.";

(17) by adding at the end of the items relating to section 16 the following:

"(e) Review of regulations.
"(1) In general.
"(2) Court.
"(3) Review of issued regulations.
"(4) Review of refusal to modify or rescind.
"(5) Scope of review.
"(6) Stays.
"(7) Judicial review.";

(18) by striking out the items relating to subsections (a) and (b) of section 17 and inserting in lieu thereof the following:

"(a) Pesticides and devices intended for export.
"(1) Violations.
"(2) Exports.
"(3) Notification.
"(4) Labels.
"(b) Cancellation notices furnished to foreign government.
"(1) Issuance.
"(2) Contents.";

(19) by striking out the item relating to section 20(a) and inserting in lieu thereof the following:

"(a) Research.
"(1) In general.
"(2) Integrated pest management.
"(3) Duplication.";

(20) by adding at the end of the items relating to section 22 the following:

"(c) Effect on certain other laws.
"(1) In general.
"(2) Coordination.";

(21) by adding at the end of the items relating to section 23 the following:

"(d) Authorization for appropriations.
"(1) Certified applicator training.
"(2) Pesticide certification and licensing programs.
"(3) Appropriated amounts.
"(4) Coordination.";

(22) by striking out the item relating to section 24 and inserting in lieu thereof the following:

"Sec. 24. Authority of States.
"(a) Sale or use.
"(b) Labeling or packaging.
"(c) Additional uses.
"(1) Special local needs.
"(2) Disapproval.
"(3) Tolerances or exemptions.
"(4) Controls.
"(d) Differences in usage and risk.
"(e) Low volume nonfood pesticide use.
"(1) In general.
"(2) Informal rule making.
"(3) Criteria.
"(4) Duration.
"(5) Description.";

(23) by striking out the item relating to sections 26 and 27 inserting in lieu thereof the following:

"Sec. 26. State primary enforcement responsibility.
"(a) State responsibility.
"(1) Criteria.
"(2) Coordination.
"(b) State plans.
"(c) Administrator responsibility.
"(d) Certification in pesticide use applications.
"(e) Political subdivisions.
"Sec. 27. Failure by the State to assure enforcement of State pesticide use regulations.
"(a) Complaints.
"(1) Referral.
"(2) Investigation.
"(3) Action by Administrator.
"(b) Rescission.
"(c) Emergencies."; and

(24) by adding at the end thereof the following:

"Sec. 31. Data collection and retrieval systems.
"(a) Data collection system.
"(1) In general.
"(2) Advisory committee.
"(b) Data retrieval system.
"(1) In general.
"(2) Availability.
"(c) Indexing.
"(d) Confidentiality.
"(e) Report.
"(f) Completion.".

## TITLE XIV—EFFECTIVE DATE

SEC. 2401. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) and other provisions of this Act, this Act and the amendments made by this Act shall become effective 60 days after the date of enactment of this Act.

(b) CERTIFICATION, TRAINING, AND RECORDKEEPING.—The amendments made by sections 101, 107 (only with respect to the definition of "pesticide dealer"), 301, 302, 901, and 1902 shall become effective 120 days after the date of enactment of this Act.

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## SUMMARY OF THE PESTICIDE REFORM ACT OF 1986

### REREGISTRATION

Reregistration of pesticides would be required under the bill. The Environmental Protection Agency (EPA) would be required to publish in the Federal Register, within 90 days of enactment, a priority list of 300 pesticide active ingredients not reregistered since September 30, 1978. A second list would be required to be published 90 days later containing the remaining pesticide active ingredients not reregistered. The reregistration process would take approximately 10 to 12 years to complete. Registrants would be required to assist EPA by identifying data gaps and to commit to rere-

gister a pesticide ingredient or face cancellation of the registration.

CANCELLATION

Detailed, scientific criteria would be required for cancellation of a registration. This criteria would be based on a validated test or other significant evidence that use of the pesticide posed risks to man, animals, or the environment. The cancellation process for a registration could take up to 18 months.

CONDITIONAL REGISTRATION

The bill basically restates current law by providing flexibility to EPA in determining when the applicant for an additional use has submitted satisfactory data pertaining to the proposed additional uses of the registered pesticide. This flexibility is particularly important in connection with study requirements and timetables for the registration of small-volume, minor use pesticides. In addition, EPA or a State or State agency may not make lack of essentiality a criterion for denying conditional registration of any pesticide. The bill would also provide for a risk-benefit evaluation, include reference to pesticides for minor food or feed crops, and require consultation with the Secretary of Agriculture.

INERT INGREDIENTS

The bill would increase the authority of EPA to regulate inert ingredients by establishing for EPA review a priority list of inerts which might present a hazard to man or the environment. A maximum of 50 inerts could be placed on the priority list. A risk assessment indicating that a significant hazard may exist from use of the pesticide would be required prior to an inert being placed on the priority list. The bill also would take into account the differences between agricultural and nonagricultural products, would authorize EPA to request additional data when necessary which would be subject to a risk-benefit assessment, and would require specific label warnings for inerts which may be a significant hazard to man or the environment.

PREREGISTRATION ACCESS TO DATA

The bill increases the preregistration access to data over current law by allowing public access to health and safety data submitted in support of an initial application for the registration of a new active ingredient or initial food use of a previously registered active ingredient. The bill would also provide for fines of up to $25,000 and imprisonment for up to 3 years or both for the improper disclosure of the released data.

STATE ISSUES

The bill would provide that State governments—but not local political subdivisions of a State—may regulate the sale and use of pesticides; and would provide that States may not (1) make any lack of essentiality a criterion for regulating the sale or use of a pesticide; or (2) establish tolerances for pesticide residues different from or in addition to the tolerances established by the Food and Drug Administration.

PUBLIC RIGHT-TO-KNOW

States or designated State agencies would be required to make available to the public Material Safety Data Sheets, already required under OSHA rules, containing pesticide information.

FALSE OR INVALID DATA

The bill would require EPA to issue a notice of intent to suspend or cancel a registration of a pesticide if, prior to enactment of the Pesticide Reform Act of 1986, EPA had determined that invalid data in support of an existing registration have not been replaced and are important data essential to EPA's determination of whether the pesticide may cause unreasonable adverse effects on the environment. In addition, EPA may not issue a notice of intent to suspend and to cancel the registration of a pesticide if EPA and the registrant have agreed on a plan for replacement studies.

INSPECTION OF LABORATORIES

The bill would authorize EPA to inspect places where there is probable cause to believe the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) is being violated. The bill would authorize EPA to obtain warrants for inspection and seizure of pesticides and would allow designated State officers or employees as well as Federal officers or employees to conduct inspections.

EXPORT OF PESTICIDES

The bill would expand current FIFRA notice requirements by requiring registrants exporting pesticide products to inform foreign importers and the appropriate government regulatory office in the importing country concerning pesticide products exported by the registrants whose registrations are cancelled, suspended, restricted, are not registered for any U.S. use, or have been voluntarily withdrawn for health or environmental reasons. Export could not proceed until written notice and evidence of its delivery were made available to EPA. EPA would be required to provide similar notices to foreign governments and appropriate international agencies. In addition, exported pesticides that are substantially similar in composition and use to pesticides registered in the United States must have labels containing the same health, safety, and hazard precautions as on U.S. labels, unless precautions on the label are in conflict with the law in the importing country.

HIGHLIGHTS OF ADDITIONAL PROVISIONS

The bill contains additional provisions including provisions regulating the submission of EPA regulations to Congress for review, EPA administrative procedure and judicial review of EPA action, and EPA coordination with the Department of Labor in connection with the regulation of pesticide use.

The bill also addresses some specific users' concerns. For example, the bill provides that by proving compliance with the pesticide label, the applicator would be deemed to have exercised the proper standard of care in using the pesticide. In addition, the bill requires that not less than $5,000,000 be made available each fiscal year through fiscal year 1991 to fund, through State cooperative agreements, 50 percent of the cost of conducting training programs for the certification of applicators during each fiscal year.

The bill would also require EPA to review an application for registration and to provide notice of any deficiencies within 90 days of receipts of the application. Once all required submissions had been made, EPA would have 1 year within which to act on the application or the application would be deemed approved.

## ADDITIONAL CONSPONSORS

S. 237

At the request of Mr. THURMOND the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 237, a bill to amend title 18 to limit the application of the exclusionary rule.

S. 238

At the request of Mr. THURMOND, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 238, a bill to reform procedures for collateral review of criminal judgments, and for other purposes.

S. 419

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 419, a bill to amend the Internal Revenue Code of 1954 to allow a deduction for one-half of the expenses paid by a self-employed taxpayer for individual health insurance premiums.

S. 1107

At the request of Mr. NUNN, the names of the Senator from Arizona [Mr. GOLDWATER], the Senator from Nevada [Mr. LAXALT], the Senator from Arkansas [Mr. PRYOR], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 1107, a bill to authorize the Society of the Third Infantry Division to erect a Memorial in the District of Columbia or its environs.

S. 1494

At the request of Mr. GORTON, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 1494, a bill to amend title 23, United States Code, to limit outdoor advertising adjacent to Interstate and Federal-aid primary highways.

S. 1640

At the request of Mr. GRASSLEY, the names of the Senator from Utah [Mr. HATCH], the Senator from Arizona [Mr. DECONCINI], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 1640, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of services performed by a physician assistant.

S. 1736

At the request of Mr. PRESSLER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1736, a bill to amend the Public Health Service Act to provide assistance for education, research, and treatment programs for Alzheimer's disease and related disorders, and for other purposes.

S. 1747

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1747, a bill to amend the Foreign Assistance Act of 1961 to protect tropical forests in developing countries.

S. 1793

At the request of Mr. KENNEDY, the names of the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Pennsylvania [Mr. HEINZ]

were added as cosponsors of S. 1793, a bill to amend the Public Health Service Act to establish a grant program to develop improved systems of caring for medical technology dependent children in the home, and for other purposes.

S. 1847

At the request of Mr. MITCHELL, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Mr. MATHIAS], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 1847, a bill to provide for a Samantha Smith Memorial Exchange Program to promote youth exchanges between the United States and the Soviet Union, and for other purposes.

S. 1923

At the request of Mr. THURMOND, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 1923, a bill to provide for additional bankruptcy judges.

S. 1980

At the request of Mr. THURMOND, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1980, a bill to amend title 17, United States Code, regarding the conveyance of audiovisual work, and for other purposes.

S. 2081

At the request of Mr. STAFFORD, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 2081, a bill to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Services Block Grant Act, for deferred cost care programs, and for other purposes.

S. 2180

At the request of Mr. GORTON, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 2180, a bill to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

S. 2198

At the request of Mr. TRIBLE, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 2198, a bill to provide that the full cost-of-living adjustment in benefits payable under certain Federal programs shall be made for 1987.

S. 2271

At the request of Mr. DENTON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2271, a bill for the relief of Jens-Peter Berndt.

S. 2288

At the request of Mr. CHILES, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2288, a bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low-income pregnant women and of providing medical assistance to low-income infants under 1 year of age.

S. 2301

At the request of Mr. THURMOND, the names of the Senator from Florida [Mrs. HAWKINS] and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 2301, a bill to reform procedures for collateral review of criminal judgments, and for other purposes.

S. 2302

At the request of Mr. THURMOND, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Florida [Mrs. HAWKINS] were added as cosponsors of S. 2302, a bill to amend title 18 to limit the application of the exclusionary rule.

S. 2308

At the request of Mr. LAUTENBERG, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2308, a bill to authorize the President of the United States to award congressional gold medals to Anatoly and Avital Shcharansky in recognition of their dedication to human rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

SENATE JOINT RESOLUTION 241

At the request of Mr. DOLE, the names of the Senator from California [Mr. WILSON], the Senator from Michigan [Mr. LEVIN], the Senator from Nebraska [Mr. EXON], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 241, a joint resolution designating the week beginning on May 11, 1986, as "National Asthma and Allergy Awareness Week."

SENATE JOINT RESOLUTION 292

At the request of Mr. HUMPHREY, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of Senate Joint Resolution 292, a joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life.

SENATE JOINT RESOLUTION 297

At the request of Mr. THURMOND, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Joint Resolution 297, a joint resolution to designate the week of April 20, 1986, as "Crime Victims Week."

SENATE JOINT RESOLUTION 309

At the request of Mr. DURENBERGER, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Missouri [Mr. EAGLETON], the Senator from Utah [Mr. GARN], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 309, a joint resolution to designate the week of June 1, 1986, through June 7, 1986, as "National Intelligence Community Week."

SENATE JOINT RESOLUTION 310

At the request of Mr. HELMS, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 310, a joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week."

SENATE JOINT RESOLUTION 318

At the request of Mr. ABDNOR, the names of the Senator from Nebraska [Mr. EXON], the Senator from Oklahoma [Mr. BOREN], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 318, a joint resolution designating November 1986 as "National Diabetes Month."

SENATE JOINT RESOLUTION 321

At the request of Mr. LUGAR, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. PELL], the Senator from Missouri [Mr. EAGLETON], and the Senator from Nebraska [Mr. ZORINSKY] were added as cosponsors of Senate Joint Resolution 321, a joint resolution to designate October 1986 as "National Down Syndrome Month."

SENATE JOINT RESOLUTION 323

At the request of Mr. D'AMATO, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nebraska [Mr. EXON], the Senator from Virginia [Mr. TRIBLE], the Senator from Michigan [Mr. RIEGLE], the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. PRYOR], the Senator from Iowa [Mr. GRASSLEY], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from California [Mr. WILSON], the Senator from Idaho [Mr. SYMMS], the Senator from Mississippi [Mr. STENNIS], the Senator from Michigan [Mr. LEVIN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kansas [Mr. DOLE], the Senator from Nebraska [Mr. ZORINSKY], the Senator from South Carolina [Mr. THURMOND], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 323, a joint resolution to designate May 21, 1986, as "National Andrei Sakharov Day."

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## SENATE RESOLUTION 385—RELATING TO HUNGER IN AMERICA

Mr. SASSER (for himself, Mr. GORE, Mr. SARBANES, Mr. KENNEDY, Mr. BUMPERS, and Mr. ROCKEFELLER) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 385

Whereas millions of Americans face hunger each month;

Whereas the incidence of hunger and malnutrition, among American citizens is on the rise;

Whereas hunger and malnutrition increase susceptibility to disease, anemia, and vitamin deficiencies and are leading causes of infant mortality and disease;

Whereas malnourished individuals have a greater need for health care services;

Whereas the cost of health care services is borne by all Americans through State and Federal taxes;

Whereas our Nation pays a great price as a result of the loss of productivity of persons suffering from hunger and malnutrition;

Whereas federally funded nutrition assistance programs were designed and implemented to eliminate the presence of malnutrition and hunger in America; and

Whereas the presence of hunger in America suggests the need for improvement in Federal nutrition programs: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) hunger in America is a cause for concern because it is preventable;

(2) constructive measures should be implemented to improve the effectiveness of Federal nutrition programs; and

(3) a commitment be made to end hunger in the United States by the year 1990.

● Mr. SASSER. Mr. President, today I am submitting a resolution focusing on a persistent domestic problem, hunger in America. It is time for the Senate to take constructive steps toward ending hunger in America by the year 1990, and this resolution is a beginning toward that ultimate goal.

We have seen many changes in nutrition programs over the past 5 years. We have seen greater reliance on the States to combat domestic hunger. We have modified and restricted eligibility standards for nutrition programs. We are moving in the direction of providing Federal nutrition only to the "poorest of the poor," a step which ignores the need of many deserving Americans. These factors and others have combined to undermine the effectiveness of Federal nutrition programs.

One important factor which has served to stymie efforts to better our nutrition programs is the fact that we have no hard numbers indicating the extent of hunger in this country. The Federal Government does not obtain or interpret statistics which directly state the number of hungry or malnourished persons in America. Unfortunately, this means that nutrition programs are exceptionally vulnerable to the budget-cutting knife. However, whether there are 5 million or 20 million hungry people in our States, the number is simply too high.

I held a field hearing in my State of Tennessee during February of this year, and was told in no uncertain terms by doctors, nutritionists, and needy families themselves that people are going hungry. It may be that Federal programs only help a family for a portion of each month. Or that they do not know that they may be eligible for assistance. For mothers and children on WIC, the vouchers only go so far. In every case made known to me, it was clear that not enough food was getting to families, and it is the children who suffer the greatest.

The director of nutrition services for the State of Tennessee wrote me recently informing me that only 46 percent of eligible mothers and children receive the benefits of the Special Feeding Program for Woman, Infants, and Children [WIC]. I have also been told by other sources that food stamp use is at the 50-percent level.

Hunger in America often goes unnoticed, Mr. President. It is a silent disease targeting the weakest and the poorest members of our society—our elderly and our children and mothers. Yet, this is not an irremediable situation. We can combat this disease by moving in a direction which will curb the incidence of hunger, and not exacerbate it.

It is easy to walk away from this serious problem while simply laying blame on poor people themselves, or on the States, or on economic trends. But I believe that it is time for us to take a stand against hunger by first acknowledging its existence, and then by agreeing to take constructive steps to end it. We must work together to combat this problem, pulling together all elements of our society, as we did as a nation when we sent men to the Moon. It is time for cooperative dialogue and constructive measures.

It is my hope that my colleagues will see through the various rationales given for abandoning our responsibility to feed this Nation's hungry people. Federal nutrition programs have already been cut until they are inadequate to meet the need. Ending hunger should become a priority of this body. Cosponsoring my resolution to end hunger in America is a way to rekindle this worthy process.●

## NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee's April 22, 1986, hearing on the implementation of title XVIII of Public Law 99-272, the Reconciliation Act, has been postponed until the week of April 28, 1986. The exact date and time will be announced early next week. For further information, please call Bob Wilson, chief counsel of the committee at 224-5175.

## ADDITIONAL STATEMENTS

### AMBASSADOR JOSEPH VERNER REED SPEAKS ON TERRORISM

● Mr. MATHIAS. Mr. President, I would like to submit for the RECORD a statement by Ambassador Joseph Verner Reed which offers an account of the terrorism of Libyan agents in dozens of cities throughout the world. These actions, often against the officials of governments, often against innocent civilians, often against Libyans who disagreed with Qadhafi, were the basis for travel and residence restrictions which were placed on Libyan diplomats at the United Nations.

As Ambassador Reed commented at the time, the restrictions were entirely reasonable, given the trail of murder and violent assaults carried out—and openly acknowledged—by the regime. The restrictions may well have prevented other attacks.

The statement follows:

STATEMENT BY AMBASSADOR JOSEPH V. REED

Mr. Chairman, to take this floor to reply to the words of the delegate of Libya is a necessary but sad occasion. There are few matters in which Americans have taken more pride than their commitment to plain, direct speech. We Americans, are a down-to-earth, plain-spoken people; we abhor evasion, cant or a sham. Today, is Friday, November 29, 1985 and the Host Country Committee, which is so ably led by the distinguished chairman, the Ambassador of Cyprus, has just heard one, two or all of the above.

Before I reply, Mr. Chairman, may I say as the envoy of the Host Country, the United States of America, that it is our pleasure to have been able to welcome you and our freedom loving friends to our land of plenty on our special and great national holiday—that of Thanksgiving, which we have been celebrating since 1621. This celebration of the bounty of America is open to our friends, and to our friends we extend our nation's good wishes. Today, however, in the midst of our good wishes, we must speak with the directness with which we have taken pride in time past.

Libya's acts in the international arena have been and are an atrocity. Libya's leader is a dictator—an agent of hateful and evil acts. Libya's strongman is a modern day Barbary pirate.

In the view of the Government of the United States, the restrictions imposed on the members of the Libyan Mission by our Note Verbale of August 31, 1984, do not contravene international treaty or laws. Restriction to the five boroughs of New York City does not interfere with transit to the Headquarters District nor with the accordance of such facilities as can reasonably be considered necessary to the transaction of the business of Libya with the United Nations. Travel and residence restrictions have from time to time been placed on the representatives of countries accredited to the United Nations when those countries and individuals pose a security risk to the United States of America. With regard to Libya, the United States has taken the necessary restrictions against its delegation in New York based on numerous deplorable acts and rhetoric that has taken place both

in and outside the United States attributed to the Libyan government.

Terrorism continues to be seen by the strongman of Libya as an effective and legitimate means of pursuing foreign policy goals. Libya has repeatedly employed tactics of assassination and violence. There are established terrorist training facilities on Libyan soil, and Libya has financed and armed known terrorists and murdered opponents. These terrorist operations are now reported to be active in 50 countries.

The litany of Libya's involvement in terrorist activities is unbelievably long, yet it continues to grow. Libya provided sanctuary to the perpetrators of the murders at the Olympics in Munich. Earlier this year, the strongman called for the cutting off of our President's nose. That's quite a span of time from 1972 to the present in acts and words of hate.

London, April 11, 1980: A freelance Libyan journalist was assassinated by two gunmen outside the Islamic center Mosque. The gunmen were arrested by Scotland Yard. Two additional suspects who were characterized as Libyans were detained the following day.

Rome, April 19, 1980: A Libyan businessman was assassinated in a cafe. The assailant was apprehended a short distance away—a Libyan. Why had the businessman been killed? The assassin said the victim had been murdered because he was "an enemy of Colonel Qadhafi."

London, April 25, 1980: A Libyan lawyer was shot and killed at an Arab legal center. The gunman and another man asked for their victim by name, walked into his office and fired several shots killing him as other employees watched. The assassins were believed to be members of Libyan death squads who are assassinating opponents of the Libyan strongman.

Rome, May 10, 1980: A Libyan businessman was assassinated. The victim was lured to a hotel for an appointment and following a few minutes of talk with two men was shot twice in the head by one of them. The pair disappeared in a crowd at a nearly railroad station. Police arrested a Libyan suspected of being involved in the assassination.

Bonn, May 10, 1980: A Libyan businessman was shot dead in Bonn's city center. The former diplomat had received death threats prior to his assassination by a Libyan who had arrived in West Germany at the end of April.

Rome, May 20, 1980: A Libyan businessman from Tripoli was found stabbed and strangled to death in a boarding house.

Athens, May 21, 1980: A young Libyan was found dead in his apartment. Local authorities said the victim was known as an outspoken critic of the Libyan strongman.

The United States of America, Fort Collins, Colorado, October 14, 1980: A Libyan graduate student was shot and wounded by an individual who had come to his home. The victim was known as an opponent of the present regime.

The United States of America, Ogden, Utah, July 17, 1981: A body believed to be that of a Libyan student was found in the trunk of his car. A Libyan national, also a student, suspected of the murder was arrested at O'Hare International Airport in Chicago as he was deplaning from a flight from Utah. He was carrying a large amount of cash and tickets for onward travel to where? Tripoli.

Lebanon, December, 1982: Libya sent armed contingents to North Lebanon to carry out attacks against the multinational forces in an effort to increase unrest in the zone.

Tripoli, February, 1983: In a series of resolutions adopted in the Tripoli Peoples Congress, Libya's charlatan body politic called for spending part of Libya's oil wealth on arms for "all the revolutionary forces in the Arab and Islamic worlds." The resolution called for "suicide squads" to be formed to press attacks inside Arab territory occupied by Israel and against the symbols of treason in the Arab arena who "follow the imperialist camp headed by the United States, the leader of world terrorism."

Switzerland, April 1983: The Swiss government expelled the Libyan Charge d'affaires for supplying weapons to two convicted Swiss terrorists.

Germany, April 1983: Libya took eight German technicians hostage in order to blackmail West Germany into releasing Libyans charged with violent crimes.

Jordan, June 1983: The Libyan envoy to Hashemite Kingdom defected. The Ambassador revealed the Libya strongman's plan to use missiles to destroy the aircraft carrying King Hussein.

Sudan, March 1984: A Libyan bomber invaded Sudanese airspace and attacked a radio and television station.

Chad, February, 1985: The government lodged a complaint in this House of Peace, the United Nations, claiming Libya had attempted to assassinate President Habre in September, 1984. Photographs of the attache case bomb that was to be used in the attack were provided as evidence.

The United States of America, Chicago, February, 1985: At a convention of members of the Nation of Islam headed by Minister Farrakhan, the Libyan strongman, speaking over closed circuit television, called for Black Americans "to immediately leave the military and fight with his support for an independent Black state. "We are ready to give you arms," he proclaimed.

The United States of America, May, 1985: Our government uncovered a Libyan plot to assassinate anti-Qadhafi Libyans in the United States. As a result, a Libyan diplomat at the United Nations was declared persona non grata.

Bangladesh, June, 1985: A Libyan-trained Bangladeshi national who had received Libyan support in an earlier coup attempt was arrested for plotting to kill President Ershad.

The plotting to assassinate modern Arab leaders has been going on since the seventies. Libya's plans to kill American ambassadors in several Middle Eastern countries and at least one European capital have been uncovered. What does the world think? Libyan "hit squads" have been sent throughout the world to murder exiled Libyans in an overall effort to intimidate dissidents. Libyan "hit squads" have reached out and attacked exiled Libyans in Italy, England, West Germany, Lebanon, Greece and the United States. Where next? The dictator's efforts to use terrorism to eliminate dissidents whom he regards as a danger is constant. The regime and its representatives is and are terrorists.

May, 1985: The Libyan strongman threatened a terrorist campaign against "his enemies" by stating, "I am a terrorist. I would, if I could, behead the rulers of other Arab nations that oppose me."

November, 1985: A group of armed Libyans were arrested by Egyptian authorities for again attempting the assassination of former Prime Minister Bakoush.

The Libyan strongman's personal verbal attacks and actions against world leaders including President Reagan manifests his desire to disrupt the ordinary functions of governments that he opposes through subversion and terror tactics.

November, 1985: The Libyan strongman threatened and I quote "to fight and subvert America from the inside by using all means available." The Libyan strongman likened President Reagan, the leader of the Free World, to Adolph Hitler and was quoted as vowing to "export terrorism to the heart of America." The Libyan strongman boasted that quote "Libya was capable of physical liquidation, destruction and arson inside America". That same year the Libyan strongman spoke of exiled Libyans as "those stray dogs abroad who should not think their families or their children will escape punishment."

When Libyan officials at the People's Bureau in London opened fire on peaceful demonstrators, killing a British police woman assigned to protect that diplomatic establishment, it graphically pointed out the fact that the present Libyan regime and its diplomatic representatives have rejected all, I repeat all, international treaties and laws. Libya has in effect left the family of nations and has set itself apart from civilized governments. As a result of this position taken by the Libyan strongman, governments throughout the world are taking necessary precautions to protect their citizens and their overall national security against this band of thugs masquerading as diplomats.

We can rely on the public record, a record which is long enough to convince any reasonable man that the Libyan regime has chosen to exist beyond the pale of acceptable international behavior. We are talking here about open violence against persons on foreign soil—many of them freely and openly acknowledged by the Libyan regime.

For these reasons, the careful travel controls on Libyan officials in the United States are entirely reasonable. Libyan diplomats representing their country to the United States have been sent home. The Libyans presently serving at the Libyan Mission to the United Nations have been permitted to stay in conjunction with our obligations under the Headquarters Agreement. These obligations, however, which are being fully met, do not in any way require the United States government to make itself and its citizens vulnerable to terrorist activities. America and Americans will not tolerate the use or attempted use of these United States for terrorist activities.●

## TRIBUTE TO CHAD COLLEY

● Mr. PRYOR. Mr. President, the President's Committee on Employment of the Handicapped recently announced the 1986 Handicapped American of the Year. On April 30 that celebrated award will be presented to Mr. Ralph "Chad" Colley of Barling, AR, who lost both legs and an arm while serving in Vietnam.

While Americans all over this great country have joined in honoring the accomplishments of Mr. Colley, I cannot help but add that the people of Arkansas take special pride in the inspiring achievements of one of our most distinguished citizens.

For Chad has proven that you don't need legs to chase your dreams. What you do need is boundless energy, enthusiasm, and determination to overcome even the greatest of obstacles. As the possessor of these admirable qualities, Chad has been singled out as the Handicapped American of the Year.

In 1966, after graduating with honors from North Georgia College, Chad Colley received a commission in the U.S. Army. On July 21, 1968, Colley, then an officer with the Army's 101st Airborne Division, was leading a company of men on a combat mission some 45 miles northwest of Saigon when a land mine exploded, throwing him into the air and resulting in the amputation of three limbs.

Remarkably, just 3 days after he was wounded Chad wrote a letter to his wife, Betty Ann, saying, "Even though I'm banged up pretty bad, I'm still me. I can put my loss of limbs into an asset. I have a big challenge to undertake now."

Chad Colley wasted no time facing his new challenge. Within a year after sustaining his injuries, he was already working as a real estate broker. Since then, he has held positions as sales manager for the largest homebuilder in western Arkansas and as a loan manager for a Federal savings and loan association. Today Chad is president of Colley Home Center in Barling, AR.

Apart from his business activities, Chad invests much of his time working with issues affecting the handicapped. He has been an active member of the Disabled American Veterans [DAV] Organization for several years, and in 1984 he was elected to serve a 1-year term as national commander of the DAV—that organization's highest office.

The list of accolades this man has received over the years is long indeed. He is a special human being with special inner strength. His unflappable determination to overcome life's setbacks and give whatever it takes to reach his goals is truly inspirational.

I congratulate Chad Colley on being selected the 1986 Handicapped American of the Year.●

## LIBYA AND THE WAR POWERS RESOLUTION

● Mr. GOLDWATER. Mr. President, most Members of Congress approved the recent United States air strikes against Libya or at least did not criticize these clearly self-defense actions, but some Members have complained that they were not consulted adequately or early enough. Some have suggested that the war powers resolution be strengthened by expanding the consultation requirement and adding detailed and specific consultative procedures.

Mr. President, expanding the war powers resolution would be the biggest mistake we in Congress could make. The statute could not and did not bind President Reagan from acting to defend American citizens against terrorist attacks originating in Libya. Or from rescuing, 1,000 American students and other citizens in Grenada.

It could not and did not prevent President Ford in 1975 from rescuing the American merchant vessel *Mayaguez* and freeing its 39 American crew members after they were seized by Cambodian Communist military forces. Nor could it or did it stop President Ford from evacuating Americans and others from South Vietnam and Cambodia in 1975 before the capture of Saigon and Phnom Penh by enemy troops.

In fact, Congress' failure to act on President Ford's request for legislation authorizing the evacuation of United States citizens and Allied people from Indochina is one of the sorriest episodes in American history. Weeks after his request, while a confused Congress was still debating the issue, President Ford announced that he had completed the rescue missions on his own constitutional authority.

The point is that the President of the United States cannot under our Constitution be hamstrung by legislative restrictions that attempt to regulate foreign policy with narrow specificity. Congress cannot and should not tie the President's hands in taking actions which he decides are needed in the national safety.

War in this world cannot be ended by legislation. Foreign policy cannot be conducted by amendments. I should like to think that we will see a day when the moral forces of the world might prevail and when all nations can understand the stupidity of war. History instructs, however, that until that day arrives, the only means of our security is to maintain a proper defense for the country, its people and their freedoms.

A credible defense requires the coherent and uniform direction of the national forces, something which is not to be found in a legislative Chamber of 535 Members, many of whom are often more occupied with questions of political opportunism and their own reelection than they are with the Nation's real interests.

Mr. President, the framers of the constitution knew the legislative branch could not be depended upon for prompt and effective action in every emergency. They remembered that the Continental Congress had interfered with General Washington's plans time after time with disastrous results. The framers wanted to correct this defect. Thus, they provided Congress with power to raise and support the Armed Forces, but they left the direction of those forces, once established, with the President, whom they designated as the Commander-in-Chief and to whom they gave all the executive power.

During its formative years, the United States was concerned primarily with securing its borders against foreign powers whose possessions encircled our Nation and most Americans were concerned with developing their country's great potential for growh and economic progress. Today, the United States stretches across a continent and beyond and stands as the largest, most powerful source of freedom and liberty in the world.

With this new status has come the unavoidable realization that in a world of instant communications, modern technology and interrelated economies, the United States cannot protect its own citizens and liberties unless it carries a major role in preventing aggression and acts of terrorism against our people and our vital interests.

In order to conduct a serious and responsible foreign policy, the President has a duty to recognize and meet challenges to our Nation and citizens in the early stages of any impending danger. If the war powers resolution or any other legislative impediment should compel him to wait or incapacitate him from action until everyone agrees the threat is clear beyond any controversy, the cost of resistance may become prohibitive with no choice left other than submission to aggression or all out war.

To sum it up, Mr. President, the survival of the American experiment in freedom under representative government may depend upon the recognition by Congress of the simple fact that the President needs and was given some flexibility in deciding when to act in the safety of the Nation and its people.

The war powers resolution may be an unconstitutional invasion of Presidential prerogative, as I believe. Or, it may be an abuse of power by Congress in a fuzzy zone of constitutional law. Whatever its legality, it should be seen for what it really is, a dangerous barrier to American security. We can amend it, as the majority leader and the junior Senator from Alabama [Mr. DENTON] have proposed in S. 2335 to specifically authorize counterterrorist initiatives by the President, or we can repeal the entire statute, as I have proposed in S. 305. I prefer to repeal it outright now before it causes a grave constitutional crisis that may endanger the Nation at a time when immediate, decisive action is demanded.●

## ADOPTEES, WITHOUT STIGMAS

● Mr. HUMPHREY. Mr. President, as cochairman of the Congressional Coalition on Adoption, I bring to the attention of my colleagues an excellent

article about adoption which appeared in the New York Times on April 19, 1986.

The article, entitled "Adoptees, Without Stigmas," and written by William L. Pierce, Ph.D., the president of the National Committee for Adoption, describes the results of two recent research studies on adoptees which dispel a popular myth about the mental health of adoptees.

Too little information about adoption is available and too little attention is paid to the benefits of adoption for all concerned—the child, the biological parents, and the adoptive parents. Talk shows feature the few unhappy adoptees on crusades to locate their biological parents. The emotional dilemmas of adoption are a fashionable story line on soap operas and TV movies. But the much more common experience of adoption is a positive, loving one for all involved.

I have dedicated myself to spreading the word about the positive aspects of adoption and exposing the false myths which have developed about adoption. Dr. Pierce's article is a much-needed dissemination of recent research findings on adoption and I applaud his efforts.

I ask that Dr. Pierce's article be printed in the RECORD.

The article follows:

[From the New York Times, Apr. 19, 1986]

ADOPTEES, WITHOUT STIGMAS

(By William L. Pierce)

WASHINGTON.—In recent years, adopted persons, especially adolescents, have increasingly been described as dependent, fearful, hostile, insecure and abnormal. The popular myth has it that adopted children have more mental health problems than the nonadopted, simply because they are adopted.

There are two main reasons why the myth was created and kept alive. First, research studies of the early 1960's, which claimed to find the problem, were based on small samples taken from mental health clinics or psychiatric case studies. By definition, the samples were loaded in favor of finding mental health problems. Second, groups and individuals, often motivated by personal unhappiness, sought radical changes in standard adoption practices and used those studies and their own first-person stories to gain attention and popularize the misconception with the general public.

But those early and inadequate research studies have long been open to question. And now, on the basis of two recent, superior studies of nonclinical populations, we can lay to rest the myth that adopted persons have more mental problems than nonadopted.

One study, by Leslie Stein and Janet Hoopes, published by the Child Welfare League of America in 1985, was part of a project that tracked adoptive families for nearly 25 years. It concluded in part, "Evidence suggesting that the adoptee has greater or more sustained difficulty with the tasks of adolescence was not found, indicating that adoptive status, in and of itself, is not predictive of heightened stress among adolescents." It said that "as a group, the adolescent adoptees interviewed were doing quite well."

A second study, published in 1985 by Kathlyn Marquis and Richard Detweiler, was also based on a study of subjects drawn from a nonclinical—that is, "normal"—population. It found that "contrary to expectations, adopted persons are significantly more confident and view others more positively than their nonadopted peers," that they have a "more internal locus of control than their nonadopted peers" and that adoptive parents were "significantly" more "comforting, predictable, protectively concerned and helpful" than nonadoptive parents.

Leslie Stein and Janet Hoopes hoped their results would dispel some of the "dire myths" about the "identity problems in adolescent adoptees." Kathlyn Marquis and Richard Detweiler, found no evidence of the "negative characteristics of dependency, fearfulness, tenseness, hostility, loneliness, insecurity, abnormality, inferiority, poor self-image, or lack of confidence." Even a recent study of adopted persons drawn from a mental health setting, by Paul and Evelin Brinich, asserts that "the majority of adoptions can justly be characterized as successes."

The finding that adopted persons are not at risk simply because they are adopted should set the stage for a reaffirmation of the value of adoption in our society.

First, all of those most directly affected by adoption—adopted people, birth parents and adoptive parents—can be confident that adoption works well.

Second, the data should reinforce the commitment of the adoption field to a continuation of sound, traditional practice. After all, the primary client of the adoption service, the child, has been shown by research to be doing fine.

Third, the research should be helpful to the media, in that the adopted person will no longer be stigmatized as pathological—or inferior—simply because she or he is adopted. One hopes that in time we'll see fewer sensational, negative stories. One can even hope that the soap operas will stop using adoption as an elixir whenever the plot lags.

Finally, the public may come to realize that adopted people are generally like everyone else—individuals who are successes or failures largely on the basis of their own efforts. Adopted people are neither strange nor special. They are simply individuals who have joined families in a different way than most people. They want neither pity nor praise. They just want to be able to live their lives with the families that are very real and very permanent to them, without stigma or headlines.●

## CAMPAIGN FINANCE REFORM

● Mr. BOREN. Mr. President, the cries for reform of our congressional campaign finance laws are loud and clear. The public is increasingly aware of the critical growth of special interest influence in our Congress. Because of this understanding of the problems which at least, indirectly contribute to the current, legislative stalemate in Congress, we can hope to see substantial reform in this session of Congress.

In October of last year, when I announced I would attempt to bring my proposal to limit the influence of political action committees and modify our campaign finance laws, it was with the intention of putting this vital issue squarely on the national agenda for action. It is my hope that with the agreements made by the distinguished majority leader and the leadership of the chairman of the Rules and Administration Committee, we can address this issue on the floor very soon in the next couple of months.

My proposal, which is pending as an amendment to S. 655 on the Senate Calendar, has a broad base of support. I am very pleased that this week, my distinguished colleague from Delaware, Senator BIDEN, has joined as a cosponsor of S. 1806. Mr. President, now 11 Members of this body have joined in putting forth this legislation as an attempt to put confidence back in our congressional elections.

An example of the kind of questions that can be raised by our current campaign financing methods can be found in a recent newspaper article. I ask that this article from the Wall Street Journal, entitled "Some Ways and Means Members Saw a Surge in Contributions During Tax-Overhaul Battle," be printed in the RECORD at the conclusion of my remarks.

I wish to remind my colleagues that I will be anxiously awaiting a committee proposal on campaign finance reform. In the absence of such a proposal, I will work with the leadership to secure a timeframe and agreement to have S. 1806 brought directly back to the floor.

Mr. President, I invite my colleagues to again review the provisions of S. 1806 and join in this effort which should not and will not go away. I firmly believe the flaws in the direction of congressional campaign finance are in direct relation with the current inability of Congress to act on the many budget, tax, and trade challenges we face.

The article follows:

[From the Wall Street Journal, Feb. 11, 1986]

SOME WAYS AND MEANS MEMBERS SAW A SURGE IN CONTRIBUTIONS DURING TAX-OVERHAUL BATTLE

(By Brooks Jackson and Jeffrey H. Birnhaum)

WASHINGTON.—It came as a surprise when Rep. Wyche Fowler (D., Ga.) voted with House Republicans last year to kill the tax bill fashioned by the Ways and Means Committee on which he sits.

The bill would have removed from the tax rolls thousands of his constituents, 65% of whom are black and nearly 24% of whom live below the poverty level.

But a report filed last week at the Federal Election Commission shows that Mr. Fowler, a liberal Democrat, is courting another constituency these days as he tunes up to run for the Senate. While the committee was wrestling with the tax bill. Mr. Fowler was raising campaign contributions from a host of special interest groups and wealthy donors, including tax-shelter pro-

moters in New York and oil drillers and real estate developers in Texas.

Executives of Integrated Resources Inc., which sells tax shelters, contributed $10,500 last October, $1,000 of which came from Selig Zises, its chairman and chief executive officer. Mr. Zises is a Democrat, but at about the same time—and while the committee was writing the tax bill—Rep. Fowler got at least $6,500 in contributions from conservative Republican Trammel Crow, a Dallas real estate developer, and from other executives of his company and its political action committee.

Mr. Zises, who is an ardent supporter of aid to Israel, said he supported Rep. Fowler both for his concern for the plight of Soviet Jews and because Rep. Fowler opposed ending federal income-tax deductions for state and local taxes, an important issue in New York. Mr. Crow couldn't be reached for comment.

Messrs. Zises and Crow, despite their differing political affiliations, have something in common. They are board members of the National Realty Committee, which lobbied to kill the tax bill.

Mr. Fowler's efforts were just part of a $7 million fund-raising spree by the 36 Ways and Means Committee members last year as they considered a tax-overhaul plan that threatened almost every special credit and deduction in the tax system. More than half of the nearly $3.6 million that Ways and Means members got in 1985 from political action committees came in the second half of the year, when the panel was engrossed in the writing of the tax-revision bill that the House subsequently passed.

SURPRISING SOURCE

But Rep. Fowler's support from business groups is surprising. His voting record in 1984 rated only a 27% approval score from the U.S. Chamber of Commerce, compared with 67% from the AFL-CIO labor federation. In 1985, however, his financial support included $75,800 from wealthy Texans in the last six months of the year, which was 23% of all donations from individuals during that period.

Most of the Texas money came in on a single day. Sept. 30. Oil-industry sources said it was raised on a trip of Dallas and Houston arranged with the help of Carl Arnold, Washington lobbyist for Quintana Petroleum Corp., Houston.

Rep. Fowler couldn't be reached for comment on his campaign finances; an aide said the lawmaker's vote to prevent consideration of the tax bill was procedural and didn't indicate opposition to it. That procedural vote would have killed the tax bill had it not been for an extraordinary effort by President Reagan to rally GOP support for tax overhaul; the vote was reversed the following week, with Rep. Fowler supporting the measure this time.

Mr. Arnold couldn't be reached either. But the list of donors includes Mr. Arnold (whose occupation is listed on Rep. Fowler's campaign contributions reports as "consultant") and his clients Corbin Robertson Jr., and Corbin Robertson Sr., (who are top executives of Quintana but are listed on Rep. Fowler's reports as self-employed investors). Independent oilmen such as the Robertsons lobbied vigorously to retain special tax provisions that the House-passed bill would cut.

PACS PROVIDED 41 PERCENT

Altogether, Rep. Fowler has put aside $767,665 for his campaign against Republican Sen. Mack Mattingly. In all, 41% of the money Mr. Fowler raised last year came from PACs, including those of business groups that opposed the tax bill. The biggest sum from such groups was $10,000 from Alignpac, a group of insurance salesmen who fought hard—with some success—to prevent taxation of the tax-sheltered insurance policies they market.

Ways and Means members acknowledge that raising money comes more easily for lawmakers who write tax bills. Rep. Judd Gregg (R., N.H.) says. "It was like night and day, being on the Science Committee before and being on Ways and Means now."

"That's just the way the world works in terms of politics." says Rep. Henson Moore (R., La.)

In fact, the $539,575 that Rep. Fowler raised last year was only the third-highest total among Ways and Means Committee members. Rep. Moore, who also is running for the Senate, raised $1.4 million in 1985, of which 23% came from PACs. Democratic Rep. James Jones of Oklahoma, currently running an undeclared Senate campaign, raised $616,624, of which 56% came from PACs.

"I explained to them that it wasn't going to fly—what they wanted wasn't going to happen." Rep. Moore says. "I'm not there to do what they like, but to do what's right."

Rep. Jones held a $500-a-person reception at a Washington hotel Nov. 19, in the midst of the tax-bill drafting sessions. Ways and Means Committee Chairman Dan Rostenkowski left the hearing room to attend Mr. Jones's fund-raising event briefly.

TAX-BILL WORK A "DAMPER"

But Mr. Jones insists that working on the tax bill actually was a "damper" on his fund-raising efforts. "We had to cancel stuff right and left" he says.

Some tax-writers did avoid asking for money while they were working on the tax bill. Rep. Willis Gradison (R., Ohio) says he didn't hold any fund-raising events last year. Mr. Gradison who has won reelection regularly by wide margins, says he also avoids taking PAC funds. "That's one less thing for people to criticize me for," he says.

Still, campaign-finance reports of Ways and Means members show that they raised just over $7 million in campaign contributions during 1985, more than 50% of it from PACs and much of the rest from Washington lobbyists and out-of-state businessmen interested in their votes on the tax bill.

Common Cause, the self-styled citizens lobby, released a study yesterday that says PACs also gave $3 million last year to members of the Senate Finance Committee, which is currently considering the tax bill.

The organization's president, Fred Wertheimer, charged that "PAC money is being given by special-interest groups in order to assure that they get special advantages in our tax system."

FIVE SEEK NEW POSTS

Although some critics of the campaign finance system complain that it helps cement incumbents in office, at least five Ways and Means members are believed to be leaving the House to run for other elective posts. In addition to Messrs. Fowler, Moore and Jones, Reps. Cecil Heftel (D., Hawaii) and Carroll Campbell (R., S.C.) are running for governor of their home states.

Rep. Moore says he regrets having to raise money while working on the tax bill but says, "I couldn't afford the luxury of worrying about what some people think." He received $296,870 from PACs during the last half of the year but says the money "dern sure" didn't buy any influence with him.

Rep. Moore, who tried hard to kill the tax bill, was a key figure in drafting proposals to change taxation of insurance companies and their products. On Oct. 28 two weeks before a panel on which Mr. Moore served issued its recommendations on insurance taxation, he flew to New York City to dine with executives of insurance companies whose PACs had given or pledged at least $2,500 to his campaign.●

## SAM WALTON, CHIEF EXECUTIVE OFFICER OF THE YEAR

● Mr. PRYOR. Mr. President, the cover of the April 15, 1986, issue of Financial World has a picture of Mr. Sam M. Walton of Bentonville, AR. Recently, he was named "Chief Executive Officer of the Year."

Starting from scratch, Sam Walton built Wal-Mart Stores, Inc., into one of the Nation's most profitable retailers. His leadership has boosted Wal-Mart Stores, Inc., to a whopping $8.4 billion industry. There is no question that Sam is one of the most innovative and successful businessmen in America today.

I congratulate Sam and his team of over 110,000 loyal employees for working together to make Wal-Mart Stores, Inc., a giant in today's business world.

It is my pleasure to submit for the RECORD the Financial World article on Sam being named "Chief Executive Officer of the Year."

The article follows:

GOLD WINNER—SAM M. WALTON OF WAL-MART STORES TAKES THE TOP PRIZE

(By Stephen Taub)

Sam Walton's savvy, homespun success probably hasn't fazed his old Zeta Phi brothers at the University of Missouri. In a 1940 profile entitled "Hustler Walton," a fraternity newspaper cited the year's Big Beta on Campus for numerous club memberships, athletic prowess and a knack for recruiting top-notch frat leaders. For good measure, the story hailed his friendliness in knowing virtually every janitor by name and his community spirit in passing the collection at church services. "There is little limit to the number of things Sam has done," added the bedazzled writer.

More than four decades later, it is obvious that "Hustler" Walton's fans were selling him short. The 68-year-old chairman and chief executive has parlayed that energy "and those human skills" into something unique: Wal-Mart Stores, now the nation's second largest mass merchandiser and one of corporate America's greatest successes. Today, the company boasts sales that exceed $8.4 billion and a staff of more than 110,000 employees. It is one of the nation's most profitable retailers.

Perhaps inevitably, such accomplishments inspired a panel of judges to elect Walton FW's 1985 CEO of the Year. The recognition stems not from a single year's achievements, but from his company's long, uninterrupted, dizzying growth rate, particularly in view of the economic problems afflicting the farm belt and oil patch served by the bulk of his stores. Over the past 10 years, Wal-Mart's compounded annual revenue growth has been 37.5%, and its compounded earnings growth has been 39.8% per year.

"I would have assumed he was CEO of the Year many years ago," asserts Donald Clifford Jr., president of Threshold Management, a management consulting firm. Adds Clifford, an FW judge, "The most important single job of the CEO is to build an organization so strong that it hardly needs him at all. If he has a terrific group of people who are highly motivated and highly talented, they will figure out the strategies and how to get out of trouble."

Walton agrees. He is a humble, sincere Southern gentleman who seems to feel most comfortable in hometown Bentonville, Ark., a city of fewer than 10,000 residents. Characteristically, Walton is a mite sensitive, even sheepish, about receiving much credit for his company's record. And he's downright infuriated by published reports that claim to gauge his personal fortune at about $2.8 billion. That would make him the wealthiest American alive, but Walton—who shuns publicity more than ever these days—denounces the figure as irresponsible guesswork.

Instead, the merchandising magnate unrelentingly diverts most personal praise to his management team and to Mal-Mart's salespeople, whom he respectfully labels "associates." Says Walton again and again: "I wouldn't have gotten here without these people." He does accept some credit, however, for having judged them worthy and for developing the Wal-Mart approach.

Walton's strategy took root in the 1940s, shortly after he graduated from college. He had originally planned to attend graduate school, then to sell insurance. But the impatient young man instead joined J.C. Penny as a trainee in 1940 for $85 a month. Five years later, he opened his first Walton's Ben Franklin store; eventually, he moved to Bentonville to open a Walton 5 & 10 as a Ben Franklin franchise. By 1960, he had created 15 Ben Franklin outlets, all in towns of fewer than 5,000 souls. Walton recalls shaping his simple, rural strategy with considerable satisfaction: "At the time, people thought that it wouldn't work."

They were even further from the mark in 1962, when Walton broadened his formula to launch the first Wal-Mart Discount City in adjacent Rogers, Ark. By 1970, the entrepreneur was taking 28 thriving stores into the public capital market; six years later, he phased out the Ben Franklin store network to concentrate on the Wal-Mart chain.

Wal-Mart's growth recipe is already legendary. The company now owns 876 stores in 22 states, where consumers can select among 70,000 disparate items. Many of these are discounted brandname products, reflecting Walton's zeal for selling quality merchandise at bargain rates. In line with the company's tradition, most of the outlets dominate cities with populations of 5,000 to 25,000 in the South and Southwest.

Lately, though, the company has opened stores in bigger locales. "When they come to town, get ready, because they will cut the edge out from under you, even if you are J.C. Penny and K Mart," asserts George Billingsley, a local real estate and travel executive who has known Walton for more than 24 years.

"Walton had the insight to recognize that rural areas can make good markets, while others viewed them as bad markets," notes Terrence Foran, national director of retail consulting for Touche Ross & Co.

CORPORATE CULTURE

But that's only part of Wal-Mart's mystique. Walton's corporate culture is imbued with hard work, satisfaction and dedication. His own days begin at 6 a.m. and stretch well into the evening, though he often drops into a Wal-Mart distribution center at 4 a.m. to sip coffee with his employees.

"You couldn't spend more than a day with him because he's too energetic," says Edward Weller, who covers Wal-Mart for E.F. Hutton & Co. In fact, Billingsley recollects that Walton nearly succumbed to claustrophobia while cruising near Alaska with his grandchildren last year because he couldn't leave the vessel.

But Walton's work habits and enthusiasm are contagious: However preposterous it may sound to urban folks, Wal-Mart's associates seem to love their work. "In rural areas, people regard their job as more important, since jobs are not as numerous," explains Foran.

Other admirers of Walton attribute the fervor of Wal-Mart's employees to the CEO's own work ethic and sincerity. And there's a touch of messianic inspiration, too. The atmosphere at his speeches and annual meetings is said to suggest a revival meeting.

"His most outstanding assets are his integrity and feel for people," asserts Charles Lazarus, chairman of Toys R Us and a Wal-Mart board member. "He makes everyone feel good after he talks. I don't know of a rabbi or priest who can do that." At store openings, Walton has been known to lead pep cheers from atop a table. "Give me a 'W,' give me an 'A,'" he exhorts, spelling out the name of his chosen corporate kingdom.

Walton still ventures out to his stores four days a week; until the company grew too large, he used to greet the entire staff at least once a year. Beyond the glad-handing, though, Walton's associates are encouraged to participate in managerial decisions. Store managers, for example, can choose which products to stock and can devise merchandising campaigns, closely watched by higher-ups who have learned to respect grass-roots marketing inspiration.

Walton stages regional sessions every year, when small employee groups cannot only discuss ways to raise sales and cut costs, but also vent complaints and suggestions for improvement. Last year, a "Dear Mr. Glass" program that asked all employees to call or write to Wal-Mart president David Glass generated 18,000 responses. "Every single one is followed up," insists Donald Soderquist, head of administration and distribution. "Then we try to correct the problem."

The camaraderie can be bizarre, and it is manifested not only on the home front. Not long ago, Walton donned a grass skirt and danced a hula on Wall Street to honor a pledge to do so if his employees could push pretax profits past 8%.

Walton has also kept promises to share the company's proceeds: Wal-Mart splits the benefits from pilferage reduction with associates. More lucrative, though, is the company's profit-sharing arrangement. Linked to the fulfillment of corporate profit goals, the plan injects an amount that equals from 6½% to 8% of a worker's salary into a trust fund that invests in Wal-Mart stock and other securities. The fund's value has grown by an annual average of more than 40% for each of the past three years. And the company's stock purchase plan grants any employee who buys up to $1,500 of Wal-Mart shares an additional 15% stock bonus.

That stock's performance has been splendid, of course. The initial offering price for 100 shares in 1970 was $1,650. After seven splits, those shares are now worth about $464,000. "We have many hourly workers who made more money from their stock than from their wages last year," Walton likes to boast. Adds vice chairman and chief financial officer Jack Shewmaker: "We have hourly associates who are millionaires, or very close to it." Not surprisingly, Wal-Mart workers can read the company's closing price every day in every store, as well as at corporate headquarters.

Walton is also a quiet, generous philanthropist. He has created a scholarship program for employees' children and has set up disaster-relief funds to rebuild their homes after fires, floods or tornadoes. Hitting a pair of targets at once, he's also bringing 20 to 30 Central and South American students to local Christian colleges to study business; Billingsley notes that they might someday help Wal-Mart expand overseas.

The boss' benevolence is echoed in Wal-Mart's outlets. Last Christmas, associates at a South Carolina store helped fund a wedding and honeymoon for a homeless, unemployed couple discovered dwelling in a car.

On the other hand, Walton is scarcely profligate. He's a notorious penny-pincher who is clearly proud that his company enjoys the highest return on equity of any retailer—and the greatest margins among variety stores. Wal-Mart's managerial ranks are strikingly trim, and its small, rather tacky lobby features neat rows of plastic seats like those in bus stations. Walton's own office is modestly sized and decorated. And he predictably cringes at the sight of excessive inventories during unannounced store visits. "He'll raise holy hell," observes Billingsley.

Walton's personal life, too, reflects more than a touch of the miser: He really does drive that legendary, battered pickup truck. And, according to longtime friend and travel agent Billingsley, Walton has flown first-class on only one occasion, and then grudgingly. This was one and a half years ago on an arduous fight from Rio de Janeiro to Johannesburg. Billingsley, who joins Walton twice a week to play tennis at the latter's court, muses that when a ball flies into a neighboring briar patch, his partner would rather search for it than open a new can. "This attitude is not a disguise, either. He believes in it."

His eccentric image, humble manner and placid voice notwithstanding, Walt-Mart's CEO is heartily opinionated, possessed of a staunch, personal sense of right and wrong in his business dealings, attests Hutton's Weller. "He's also tough as nails," Billingsley adds. "Just ask any vendor. He's as cold as a Sunday night supper."

Indeed, Billingsley warns that suppliers seeking to negotiate sales must be prepared to cut their prices by 5%. And should their products be petroleum-based, Walton will expect to pocket any cost savings that stem from oil price decrease.

Finally, Walton favors domestic products. Amid a personal crusade to encourage businesses to "Buy American," he was recently spotted admonishing a vendor for obtaining Sri Lankan goods. "How about making them in Eupora, Miss.?" Walton urged.

Patriotism, in fact, is another of Walton's themes. Wal-Mart's regional and annual meetings, generally start with "The Star Spangled Banner," frequently in conjunction with nationalist slide shows narrated by the likes of the late John Wayne.

As it happens, Walton's quirks reflect a reluctance to change his ways merely because he has a certain gift for business. He

seems never to tire of a passion for hunting quail. And Walton, a devoted fan of the University of Arkansas' football and basketball teams, becomes a trifle fed up when strangers make any fuss about him when he attends Razorbacks' games, "He's not a public person," Billingsley explains.

Walton has scarcely become a hermit, though: "If I didn't enjoy working, I'd fade off to Florida or Australia."

STILL BUSY

Wal-Mart's myriad shareholders, customers and even competitors need not fret that retirement impends for "Hustler" Walton. The company's own growth promises that plenty of tasks await resolution. This CEO must ensure that each outlet sustains or surpasses its traditional rate of expansion, not to mention the need to launch 110 fresh stores this year.

Then there's Sam's Wholesale Club, Wal-Mart's most ambitious diversification in years. Begun in 1983 as a big city, membership-only, deep-discount chain, the venture already encompasses 23 cities, including Houston, Dallas, St. Louis and Kansas City. That figure should reach 41 by the end of this year, at which time Walton's latest venture will be threatening to overtake Price Co., the pioneering, No. 1 membership discounter.

This year, Sam's Clubs are expected to generate $1.8 billion in sales; as of 1986, predicts J.D. Simpson, who follows Wal-Mart for Stephens Inc., that figure will virtually double to at least $3.4 billion. "This has given us a great, new, unlimited way of getting into urban markets," proclaims Walton. It may seem sometimes that there's little that he hasn't done. But Sam "Hustler" Walton has not forgotten that he has yet to conquer America's cities.●

## BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 5 of the first budget resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act, as amended.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, April 21, 1986.*

Hon. PETE V. DOMENICI,
*Chairman, Committee on the Budget,*
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through April 18, 1986. The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

No changes have occurred since my last report.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF APRIL 18, 1986

[Fiscal year 1986—in billions of dollars]

| | Budget authority | Outlays | Revenues | Debt subject to limit |
|---|---|---|---|---|
| Current level [1] | 1,057.1 | 980.7 | 778.6 | 1,986.4 |
| Budget resolution, Senate Concurrent Resolution 32 | 1,069.7 | 967.6 | 795.7 | [2] 2,078.7 |
| Current level is: | | | | |
| Over resolution by | | 13.1 | | |
| Under resolution by | 12.6 | | 17.1 | 92.3 |

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate committee or passed by the Senate. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986, SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF APR. 18,1986

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| I. Enacted in previous sessions: | | | |
| Revenues | | | 777,794 |
| Permanent appropriations and trust funds. | 723,461 | 629,772 | |
| Other appropriations | 525,778 | 544,947 | |
| Offsetting receipts | −188,561 | −188,561 | |
| Total enacted in previous sessions. | 1,060,679 | 986,159 | 777,794 |
| II. Enacted this session: | | | |
| Commodity Credit Corporation urgent supplemental appropriation, 1986 (Public Law 99–243). | | | |
| Federal Employees Benefits Improvement Act of 1986 (Public Law 99–251). | | 4 | |
| VA home loan guarantee amendments (Public Law 99–255). | | −51 | |
| Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272). | −4,259 | −6,001 | 765 |
| Department of Agriculture urgent supplemental, 1986 (Public Law 99–263). | | | |
| Advance to Hazardous Substance Response Trust Fund (Public Law 99–270). | | | |
| Total | −4,259 | −6,048 | 765 |
| III. Continuing resolution authority | | | |
| IV. Conference agreements ratified by both Houses. | | | |
| V. Entitlement authority and other mandatory items requiring further appropriation action: | | | |
| Veterans compensation | 272 | 185 | |
| Veterans readjustment benefits. | 91 | 91 | |
| Compact of free association | 205 | 205 | |
| Special benefits (Federal employees). | 14 | 14 | |
| Family social services | 100 | 75 | |
| Guaranteed student loans | 6 | | |
| Payment to civil service retirement. [1] | (37) | (37) | |
| Total entitlements | 688 | 570 | |
| Total current level as of April 18, 1986. | 1,057,108 | 980,681 | 778,559 |
| 1986 budget resolution (S. Con. Res. 32). | 1,069,700 | 967,600 | 795,700 |
| Amount remaining: | | | |
| Over budget resolution. | | 13,081 | |
| Under budget resolution. | 12,592 | | 17,141 |

[1] Interfund transactions do not add to budget totals.

Note: Numbers may not add due to rounding.

## WNBG RADIO WINS CRAFTED WITH PRIDE CONTEST

● Mr. GORE. Mr. President, I am proud to announce to my colleagues that WNBG radio 14 of Waynesboro, TN, has just won a nationwide contest for its campaign to persuade people to buy American products.

WNBG outperformed 735 radio stations across the country to win the "Crafted With Pride in the USA competition." For its remarkable efforts, the station will receive a prize of $25,000.

Over the course of 2½ months, WNBG sponsored a number of projects to raise public awareness of the need to buy American. The winning event honored 14 plants in Wayne and Hardin Counties with a 4½-hour show highlighting American products.

I want to commend WNBG Station Manager Lisa Nutt, Ed Plunk, and Station President O.H. (Shorty) Freeland for their originality and patriotism. In a public service announcement for the salute to workers in Wayne and Hardin Counties, I said that "by taking pride in your work, you have given us plenty to be proud of." Lisa Nutt, Shorty Freeland, and Ed Plunk and all the folks at WNBG have done just that. Their prize and the hard work that went into it make everyone of us grateful and proud.●

## MEDICAID MATERNAL AND INFANT AMENDMENTS OF 1986

● Mr. BAUCUS. Mr. President, I am pleased to join with seven of my distinguished colleagues in sponsoring the Medicaid Maternal and Infant Amendments of 1986. This legislation, which is based on the bipartisan recommendations of the Southern Governor's Task Force on Infant Mortality, will allow States to expand Medicaid coverage for low-income pregnant women and children to combat infant mortality.

Infant mortality is a serious nationwide problem that needs immediate attention. We have made great strides in battling infant mortality in some parts of the country. In my own State of Montana, for example, the rate of infant deaths has been cut in half in the last 15 years. But even Montana, where the infant mortality rate is below our national average, ranks considerably lower than many developed countries such as Finland, Japan, and Switzerland. That proves that in my State and as a whole we could do much better. In 1984, the United States was ranked only 16th among developed countries in terms of infant mortality rates.

Two-thirds of infant deaths occur in the first month of life. The factor most commonly associated with these newborn deaths is low birth weight.

The smaller the baby, the poorer the chances of healthy survival. A low birth weight baby is more likely to need costly special care. Low birth weight babies also have significantly higher rates of rehospitalization.

Prenatal care is the single most significant determinant of a newborn's health. Research has shown that preventive measures such as adequate prenatal care, nutrition, and postpartum care are much more cost-effective than treatment of low birthweight infants in neonatal intensive care units.

The Medicaid Program is the Nation's principal financing source for the health care of poor mothers and children. The States and the Federal Government have a responsibility to ensure the availability of high quality, comprehensive preventive maternal and infant care for all citizens needing these services.

In the long run it is in the Nation's best interest to finance preventive care to childbearing women and young children with incomes below the poverty level. Preventive maternity and child health care services can reduce the need for costly treatment later. The importance of providing comprehensive health care services for needy pregnant women and children through the Medicaid Program is underscored by the significant cost savings which result from the provision of preventive health care services to this population.

As many as 3.4 million women of child-bearing age living in households below the Federal poverty line are not covered by Medicaid. These women have little access to prenatal care services. It is time to make prenatal care more widely available.

We are already paying on the most expensive side of the health cost equation—the hospital costs for the sick. A reorganization of health care expenditures by putting resources into the preventive side of health care in the long run will result in significant savings in both dollars and human potential.

The cost effectiveness of this proposal is clear. The American Academy of Pediatrics reported in 1984 that savings estimates range from $2 to $10 for every dollar spent on prenatal care.

This bill gives States the option of extending Medicaid coverage to pregnant women and infants up to a year old whose family income is above the AFDC standards for the State but below the Federal poverty line. The National Governors Association estimates the cost of this plan at only $100 million to the Federal Government. This amount has already been included in the Senate Budget Committee's budget resolution.

Mr. President, I am also pleased to be an original cosponsor of a bill that was introduced recently by my distinguished colleagues from Florida [Mr. CHILES], Minnesota [Mr. DURENBERGER], Texas [Mr. BENTSEN], and West Virginia [Mr. ROCKEFELLER], called the Infant Mortality Prevention Act (Impact) of 1986.

The Infant Mortality Prevention Act, S. 2288, is slightly different from the Medicaid Maternal and Infant Amendments of 1986 in that S. 2288 calls for a gradual increase in the family income threshold. It provides Medicaid coverage for women who fall below 65 percent of the Federal poverty level in the first year, below 80 percent in the second year, and below 100 percent in the third year.

The bipartisan coalition supporting both of these bills is committed to getting this initiative underway as soon as possible. We all agree on that goal.

However, almost all efforts to provide better preventive health services have initial front-end costs before we begin to see the proven, long-term savings. Even the most worthwhile investments cost something to accomplish.

How much Congress decides to invest and how quickly the investment is made depends upon many factors that are impossible to predict at this time. I join with these Senators and Governors who will be working hard in the months ahead to fulfill our obligations to the health of our children and at the same time meet our responsibilities to limit additional costs to State and Federal budgets.●

## THE BENEFITS OF LOWERING MARGINAL TAX RATES

● Mr. BOSCHWITZ. Mr. President, in last Thursday's Washington Times, there was an article written by Warren Brookes and titled "The Benefits of Cutting Top Tax Rates." In his article, Mr. Brookes describes the findings of Prof. Lawrence Lindsey of Harvard University regarding the distributional effect of the individual tax cuts enacted in 1981 as part of the Economic Recovery Tax Act.

In short, Professor Lindsey found that—as was the case with previous tax cuts in 1921–25 and 1963–66—revenue collections from the wealthiest taxpayers actually increased as a result of a reduction in marginal tax rates, so that the wealthiest taxpayers actually paid an increased share of the individual tax burden. This was true even though marginal tax rates were reduced by a greater percentage for the wealthy in 1981 than for other taxpayers.

Like the President and many of my colleagues, I am a strong believer that we should lower marginal tax rates. Lower rates will encourage decisionmaking based on economic, as opposed to tax, considerations. Incentives to work and save will be increased. Lower rates will help eliminate the incentive for entering into abusive tax transactions and will go a long way toward making sure that all taxpayers pay their fair share.

Toward that end, I have developed a proposal to provide for lower marginal rates. Under my proposal, we do not amend over 4,000 different sections of the Internal Revenue Code and produce a bill that is almost 1,500 pages of new law. Instead, my proposal accomplishes lower marginal tax rates—both individual and corporate—by making only a few changes to the current tax laws. I have previously discussed my proposal on March 4 here in the Senate, and invite my colleagues to review it and discuss it with me.

Mr. President, I ask that the April 17 article describing the benefits of cutting top tax rates be included in the RECORD. I also want to compliment Professor Lindsey on his fine work on this subject, as well as thank him for his valuable assistance in helping me develop my tax rate reduction proposal:

The article follows:

THE BENEFITS OF CUTTING TOP TAX RATES

One of President Reagan's "conditions" for accepting tax reform was a top rate of 35 percent—compared with the 38 percent top rate in the House bill (H.R. 3838).

Republican Sen. Robert Packwood of Oregon has "met" that condition by a ruse. Although he did cut the statutory top rate to 35 percent, he phases out the $2,000 personal exemption altogether for top brackets.

This means the real top marginal rate under Mr. Packwood's reform ranges from 37 percent to as much as 43 percent.

Nevertheless, it is a measure of how far we have come from the 1981 "politics of envy" that one of the big debates in "tax reform" is whether the top tax rate should be 38 or 35 percent.

Just five years ago, the liberal media and politicians were bashing President Reagan for cutting the top rate from 70 to 50 percent as a "bonanza for the rich."

Now, these same media are applauding liberal "reformers" for "populist" plans that cut top rates another 10–12 points.

What happened, of course, was the reality of the IRS's 1982–83 tax collections which showed that cutting the top brackets actually produced more revenues from them and resulted in shifting the tax burden toward the rich, just the opposite of predictions.

Of course, the same effect had followed the 1921–25 tax cuts, in which the top rate went from 73 to 25 percent while the share of taxes paid by the top 1 percent went from 44 to 69 percent.

And in 1963–66, under the John F. Kennedy tax cuts, the top rates fell from 91 to 70 percent, while the share of taxes paid by the top brackets shot up 36 percent, and revenues 57 percent.

In short, the nation has proved again and again that when tax rates get too high, they become counterproductive, and cutting them produces more revenues from the top brackets.

These "Lafferist" ideas have now been adopted by the economic establishment. As Harvard's Professor Lawrence Lindsey points out in two recent working papers for the National Bureau of Economic Research (NBER 1760–1761):

"The idea that marginal tax rates and tax revenue may be inversely related is at least as old as Adam Smith's "Wealth of Nations." Smith argued: 'High taxes . . . frequently afford a smaller revenue to government than what might be drawn from more modest taxes.' "

Mr. Lindsey subjects the actual 1982 tax-return experience to the most rigorous statistical analysis yet, to determine the degree to which this "Laffer Curve" effect showed up in the first full year of the 1981 Reagan tax cut, when the top rates were cut from 70 to 50 percent, while the rest of the rates dropped only 10 percent.

Mr. Lindsey found that "in spite of a bias in the tax schedule [cutting top rates much more than average marginal rates], the tax share paid by the top 5 percent of taxpayers rose . . ." (see table.)

In order to factor out all extraneous influences on income and tax share (such as inflation, economic growth or decline, changing rates of capital and payroll income, etc.), Mr. Lindsey simply took the 1982 actual "baseline" income, calculated the revenues it would have delivered under the pre-1982 law, then compared them with actual 1982 collections.

First, he found that the taxable income reported by the income groups from $200,000 up (the top 0.2 percent of taxpayers) rose 12 to 34 percent over the "baseline," while that reported by the income groups below $15,000 (the bottom 52 percent) fell 3 to 5 percent from under pre-1982 law.

As Mr. Lindsey points out, "the behavioral response [to the tax reductions] was largest among upper income groups. . . ." As a result, taxes paid by the top 0.2 percent group rose 17 percent over what the tax-cut "baseline" would have forecast, and 3 percent over what it would have paid with no tax cut at all. And its share of the tax burden rose from 8.5 to 9.7 percent.

Mr. Lindsey found that while the tax cut, viewed in "static" terms, should have cost $46.7 billion in lost revenues ($33.3 in rate reductions and $13.4 billion in expanded IRA account provisions and the ending of the "marriage tax"), it actually cost $31.2 billion.

This means, Mr. Lindsey argues, that "47 percent of the $33.3 billion estimated cost of rate reductions was recaptured" because of the "behavioral response" to the tax cut itself—and among the highest groups the "recovery" rate was 103 percent.

Mr. Lindsey concludes that "there is no conflict between revenue needs and a further reduction of the top marginal personal income tax rate." And he suggests that the "revenue maximizing" top rate on income is below 43 percent—and on capital gains, 14 percent.●

## JOSH HOWARD'S JUDGMENT OF IRS IS: PHOOEY

● Mr. HELMS. Mr. President, I feel obliged to share with my colleagues a letter I received this past week from Josh Howard's father in Greenville, NC.

Josh is 12 years old. I have known him for most of those 12 years—a delightful red-headed, freckle-faced youngster who is the very epitome of an all-American boy. Back to Josh in just a moment.

Josh's parents are splendid citizens of North Carolina, both of them interested in government and dedicated to the preservation of the fundamental principles of America. Josh's father is a respected attorney in Greenville. His name is Malcolm J. Howard, but everybody knows him as Mack Howard.

Now, Mr. President, back to Josh Howard, the 12 year old. He is an industrious, active youngster. He enjoys earning money, and he is very prudent in saving what he earns. And therein lies the story of Josh Howard's first encounter with the Internal Revenue Service. In short, he has discovered the sad story of paying income taxes.

That story can best be told by reading the letter I received from Josh's dad, and I ask that it be printed in the RECORD.

The letter follows:

APRIL 9, 1986.

Re Josh Howard's 1985 Federal Tax Payment.

Senator JESSE HELMS:
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR HELMS: On February 19, 1986, Josh Howard turned 12 years old. As had been the case with his sister before him, his parents authorized the opening of a "supervised" checking account.

Josh Howard has $97.20 with which to open his account. This money represented several months of earnings including grass mowing, leaf raking, taking care of his father's bird dog and birthday gifts from his grandmother and godfather, Frank Rouse.

Because of an "education savings account," Josh Howard had interest earnings (which he did not see) sufficient to necessitate a tax return. His father's accountant prepared the return, and the net result was "Balanced Due IRS . . . $75.00."

This tax return was presented to Josh Howard on April 7 for his review and signature. After much consternation, exclamations, and generally mad-as-heck, Josh Howard subscribed his name to his tax return. The onerous task of then writing a check to the Internal Revenue Service for the grand sum of $75.00 (which was his first check ever) took much of the wind out of his sail.

Josh Howard realizes of his original $97.20, to him his life's saving, he has to pay $75.00 to the Internal Revenue Service, leaving him a grand total of $22.50 for his future expenses for health and the pursuit of happiness.

Josh Howard has had an enormous amount of questions as to what is going to happen to his $75.00. The best response that his mother and I could proffer was that it was going to Washington, DC, and President Reagan and Senator Helms would "watch over" its use and disbursement. Josh Howard understands that a great percentage of his tax money goes for national defense, aid to the underprivileged, foreign aid, federal employee salaries and benefits, and the like.

Needless to say, Josh Howard is in favor of a reduction in all of these areas and has, accordingly, requested of his father to bring his "plight" to the attention of those with authority to oversee his money.

Josh Howard is having difficulty understanding why it is important to accumulate any money if he has to send more than three-fourths of it to Washington City.

Josh Howard thanks you for your consideration of these issues.

Sincerely,

MACK HOWARD,
*His Father.*●

## STATE AND LOCAL TAX DEDUCTIBILITY

● Mr. HUMPHREY. Mr. President, today I would like to call to the attention of my colleagues an article concerning a necessary provision of any real tax reform proposal: repealing the deductibility of State and local taxes. This article, written by Mr. Bruce Bartlett, former executive director of the Joint Economic Committee here in Congress, appeared in the July/August issue of Dollars & Sense, a publication of the National Taxpayers Union. This article is entitled, "Why Local/State Deduction Should Go."

Aside from the fact that this deduction benefits a relatively small number of taxpayers in a small number of States, Mr. Bartlett points out the fact that deductibility discourages more efficient methods of financing and delivering State and local services. Mr. Bartlett goes on to state that elimination of deductibility is central to the attempt to lower tax rates and make the U.S. tax system fairer and simpler. I couldn't agree more.

Mr. Bartlett also addresses the issue of State and local spending. While eliminating deductibility will have an impact on State and local spending, the primary effect will be to slow the rate of growth, not to force cuts in spending absolutely. States would be forced to make decisions regarding what programs are the most worthy of funding. As Mr. Bartlett put it:

It would thus become more difficult for States to finance programs of doubtful benefit to their taxpayers by "hiding" the full cost within the Federal tax system.

Is there anything wrong with that? When government is no longer completely accountable to the citizens whom they are supposed to serve, that is when there is something wrong.

Mr. President, in conclusion, Mr. Bartlett makes a very good point concerning deductibility:

Without its elimination, there simply will not be enough revenue to offset more than a modest reduction in tax rates—perhaps too little to make the exercise worthwhile.

This is a question we must all ask ourselves—will it be worthwhile?

Mr. President, the points raised by Mr. Bartlett certainly warrant the consideration of the Senate as the process of tax reform progresses. If we are to have real progress, we must eliminate the unfair deduction for State and local taxes. I would urge my colleagues to keep this article in mind during the next few months.

Mr. President, I ask that the article referred to above appear in the RECORD.

The article follows:

WHY LOCAL/STATE DEDUCTION SHOULD GO

(By Bruce Bartlett)

Ronald Reagan's proposal to eliminate the deductibility of state and local nonbusiness taxes from the federal tax base is among the most controverisal provisions in this tax reform plan. This deduction has existed since the creation of the federal income tax in 1913. Yet there is a strong case for eliminating it as an integral part of an overall tax reform which reduces tax rates. Today's deduction for state and local taxes favors and it discourages more efficient methods of financing and delivering state and local services. As such, its elimination is one of the most important provisions in the Reagan tax plan and is central to the attempt to lower tax rates and make the U.S. tax system fairer and simpler.

THE INEQUALITIES OF THE DEDUCTION

Under current law a taxpayer who itemizes is allowed to deduct from his adjusted gross income all income, sales, and property taxes paid to state and local governments. On the other hand, those who do not itemize—approximately two-thirds of all taxpayers—receive no advantage from this deduction.

The benefits of this tax break accrue largely to more wealthy taxpayers, partly because they tend to pay more state and local taxes and partly because each dollar of the deduction is worth more for those in the higher marginal tax brackets. Those with economic incomes above $50,000 account for two-thirds of the deduction for state and local taxes.

The value of deductibility for taxpayers varies widely between states. It predictably is greatest in those states where taxes are the highest. The Advisory Commission in Intergovernmental Relations (ACIR) estimates the tax savings from deductibility at $263 per capita for a New York resident, but only $33 per capita for a Tennessee resident. Because the benefits of deductibilty vary so widely, the state and local tax deduction in effect forces lower-taxed states to subsidize higher-taxed states.

THE IMPACT ON STATE AND LOCAL SPENDING

Deductibility of state and local taxes is estimated to increase overall state and local government spending by as much as 20.5 percent, according to the Congressional Research Service. The ACIR puts it at only 7 percent—which would still be about $30 billion in 1983. Most other estimates put the figure at 13 to 14 percent. This means that, without federal deductibility for state and local taxes, state and local spending would be about 14 percent less than it now is and would fall by this amount in the absence of deductibility. It is unlikely, of course, that it would fall immediately, but the relative pressure to raise spending would.

Deductibility makes state and local taxes politically easier to impose. As such, it encourages state any local governments to establish progressive income taxes in contrast to flat-rate income taxes. The advantages, notes economist Edward Moscovitch, are: "the ability to shift a much greater share of the state income tax burden onto the federal government, and the ability to increase state income tax revenues . . . without increasing taxes on low- and moderate-income families. . . . By shifting state taxes onto those taxpayers in the highest federal tax brackets, the adoption of graduated rates increases the total amount of federal tax savings, and thereby reduces the total burden of a state income tax. In effect, adoption of graduated rates offers an opportunity for the state to participate in a form of state-initiated revenue sharing."

Marginal tax rates vary a great deal between states and localities. Several states have no income taxes whatsoever, while rates rise to over 18 percent elsewhere. Deductibility of such taxes from federal taxable income, however, cushions the impact of such tax rates, making it easier for states to impose taxes on those who are politically active but itemize their tax returns. In short, deductibility reduces the progressivity of tax rates—but again, only for those who itemize. The table in this article illustrates the impact of deductibility and how the President's proposal will affect taxpayers in the top tax bracket among the different states.

Naturally, those states with tax rates Substantially above the national average will worry that loss of federal tax deductibility will sharpen the differences in tax rates among the states. They know full well from past experience that taxpayers "vote with their feet" and move to states with less tax bite. It thus would become more difficult for states to finance programs of doubtful benefit to their taxpayers by "hiding" the full cost within the federal tax system.

It should be no surprise that state governments protesting the proposed tax loss of tax deductibility most loudly are mainly those, such as New York, that are high taxers and big spenders. Many of these states have offset the recent decrease in federal subsidies with increased state spending, cushioned by the deductibility of state taxes, which has meant that the increased taxes have been borne partially by Uncle Sam. Now they fear that they will have to cut back on the spending that is currently subsidized by the federal tax code. And well they may. Loss of deductibility of state and local taxes could trigger the most powerful tax revolt since 1978, the days of Proposition 13 in California. It threatens the political livelihood of spendthrift lawmakers across the nation.

THE PRIVATIZATION OPTION

Despite the loud complaints of many state and local politicians, making it more difficult for them to raise taxes does not mean that government cannot carry out obligations it has undertaken. The main activity of state and local governments, in contrast to the federal government, is to deliver goods and services—police and fire protection, trash collection, education, parks, and similar services. In 1983, for example, 95.8 percent of all state and local spending went to providing goods and services, according to the Department of Commerce, compared with only 32.9 percent of federal spending. Numerous studies show, however, that it is far less expensive to provide most of these goods and services through the private sector. Municipal and state governments therefore could cut costs dramatically by contracting with private firms to provide a broad array of services. Even now, condominium residents and other citizens' groups shop around for such services as garbage pickup and security and end up paying less for them than if they paid local taxes for the services. But since such private fees are not deductible from federal taxable income, while payments of local taxes are, after-tax cost of private services is often higher to the taxpayer than such services funded by taxes. With the loss of deductibility, therefore, privatization and contracting out of state and local government services are no longer at a disadvantage.

CONCLUSION

Without the elimination of the deduction for state and local taxes, tax reform is essentially impossible. Without its elimination, there simply will not be enough revenue to offset more than a modest reduction in tax rates—perhaps too little to make the exercise worthwhile. Since the state and local deduction mainly benefits Americans with upper incomes, its elimination restores balance among the various income sectors. This balance disappears if state and local deductibility is kept in the tax code.

To be sure, means may be devised to make the end of the deduction less painful for state and local governments. It might be phased out over a few years to ease the fiscal impact. Or an additional tax bracket could be added between 25 and 35 percent; this would ease the loss of deductibility for the vast majority of itemizers.

Whatever is done to buffer the transition, Congress must remember that deductibility benefits only a relatively small number of taxpayers in a small number of states. Congress must also recognize that the U.S. pays a heavy price in terms of economic efficiency for a tax system riddled with deductions like that for state and local taxes. There is no question that the nation as a whole would be better off without it even if federal tax rates were not reduced. When coupled with rate reductions, the nation gains a cleaner, fairer, more efficient tax system.●

## SUPPORT FOR NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

● Mr. GORTON. Mr. President, yesterday marked the start of National Organ and Tissue Donor Awareness Week. Throughout this week, the attention of the Nation will be focused on the urgent need for organ and tissue donors.

The science of human organ and tissue transplantation has revolutionized medical science and human existence. According to the National Kidney Foundation and the American Council on Transplantation, in 1984 alone, our medical community used organ transplants to bring sight to over 24,000 citizens. During the same period of time, 346 Americans were saved from heart disease by transplants. Doctors were able to help almost 7,000 citizens avoid the need for dialysis through kidney transplants in 1984. Organ and tissue transplant technology has alleviated the suffering of Americans afflicted with bone cancer, severe burns, liver disease, and pancreatic disorders. Recent breakthroughs in medical science have improved the 1-year success rate for transplant operations to between 70 and 99 percent, depending upon the type of operation.

A necessary ingredient for these modern miracles, however, is a pledge by organ donors. In a recent article in the Journal of the American Medical Association, researchers at the Seattle-based Battelle Human Affairs Research Center noted the severe shortage of one type of organ—human

hearts. The research team found that an estimated 15,000 Americans need heart transplants, and that transplant facilities are now located in over 70 medical centers. In part because of the failure of most Americans to take steps to provide for the donation of organs, however, the Battelle research team estimates that only 400 to 1,100 donor hearts will be available annually in the foreseeable future.

Similar shortages exist for other organs and tissues. The National Kidney Foundation estimates that there are over 25,000 Americans that would benefit from kidney transplant operations—8,500 of them are in critical need of transplant surgery. Today there are almost 200 people in the Pacific Northwest alone that are waiting in critical need of a kidney transplant. Another 200 citizens in my home State of Washington presently are hoping that the generosity of others will allow cornea transplants before they permanently lose their sight.

I would remind my colleagues of how simple it is to share the gift of life with our friends and neighbors. All it takes is signing an organ donor card, telling your next of kin that you have made that decision, and carrying the donor card with you at all times. My home State of Washington and many other States allow you to signify that you want to be an organ donor on your driver's license. Donor cards also are available from the Red Cross, local kidney foundations, and Lions Eye Bank facilities. Some States have established toll-free numbers at organ donor centers where citizens can call to obtain a donor card.

Mr. President, the vast majority of Americans support organ donation. Yet less than 20 percent of those who might act on their convictions do so. The problem has been a lack of awareness by Americans over the critical need for organ and tissue donations. I hope that the many activities planned for National Organ and Tissue Donor Awareness Week will make us all more familiar with how easy it is to create the miracle of giving life to others.

## SURVIVORS OF ABORTION: THE DREADED COMPLICATION

● Mr. HUMPHREY. Mr. President, today, and on the average every day, a very small baby will survive a saline or prostaglandin abortion. He or she will probably weigh between 1½ and 2½ pounds, and be about 12 inches long. Little infants who have been born prematurely and are smaller than this have survived with good neonatal care. If the notion of viability is to maintain any integrity, we must protect these abortion survivors by law. We must not allow them to be stuck in a storage room and left to die. This cowardly and barbaric "treatment" must end.

I ask that the second half of an article which appeared in the Philadelphia Inquirer in 1981, be printed in the CONGRESSIONAL RECORD. The article, which won a Pulitzer Prize, follows:

[From the Philadelphia Inquirer, Aug. 2, 1981]

Not every doctor who performs a late abortion has to confront an aggressive prosecutor like Anders. But even those abortion live births that escape public notice raise deeply troubling emotions for the medical personnel involved. "Our training disciplines you to follow the doctor's orders," explained a California maternity nurse. "If you do something on your own for the baby that the doctor has not ordered and that may not meet with his commitment to his patient, the mother can sue you. A nurse runs a grave risk if she acts on her own. Not only her immediate job but her license may be threatened."

Nonetheless, nursing staffs have led a number of quiet revolts against late abortions. Two major hospitals in the Fort Lauderdale area, for instance, stopped offering abortions in the late 1970s after protests from nurses who felt uncomfortable handling the lifelike fetuses.

A Grand Rapids, Mich., hospital stopped late-term abortions in 1977 after nurses made good on their threat not to handle the fetuses. One night they left a stillborn fetus lying in its mother's bed for an hour and a half, despite angry calls from the attending physician, who finally went in and removed it himself.

In addition, a number of hospital administrators have reported problems in mixing maternity and abortion patients—the latter must listen to the cries of newborn infants while waiting for the abortion to work. And it has proved difficult in general hospitals to provide round-the-clock staffing of obstetrical nurses willing to assist with the procedure.

One young nurse in the Midwest, who quit to go into teaching, remembers "a happy group of nurses" turning nasty to each other and the physicians because of conflicts over abortion. One day, she recalled, a woman physician "walked out of the operating room after doing six abortions. She smeared her hand [which was covered with blood] on mine and said, 'Go wash it off. That's the hand that did it.'"

Several studies have documented the distress that late abortion causes many nurses. Dr. Warren M. Hern, chief physician, and Billie Corrigan, head nurse, of the Boulder (Colo.) Abortion Clinic, presented a paper to a 1978 Planned Parenthood convention entitled "What About Us? Staff Reactions. . . ."

The clinic, one of the largest in the Rocky Mountain states, specializes in the D&E (dilatation and evacuation) method of second-trimester abortion, a procedure in which the fetus is cut from the womb in pieces. Hern and Corrigan reported that eight of the 15 staff members surveyed reported emotional problems. Two said they worried about the physician's psychological well-being. Two reported horrifying dreams about fetuses, one of which involved the hiding of fetal parts so that other people would not see them.

"We have produced an unusual dilemma," Hern and Corrigan concluded. "A procedure is rapidly becoming recognized as the procedure of choice in late abortion, but those capable of performing or assisting with the procedure are having strong personal reservations about participating in an operation which they view as destructive and violent."

Dr. Julius Butler, a professor of obstetrics and gynecology at the University of Minnesota Medical School, is concerned about studies suggesting that D&E is the safest method and should be used more widely. "Remember," he said, "there is a human being at the other end of the table taking that kid apart.

"We've had guys drinking too much, taking drugs, even a suicide or two. There have been no studies I know of of the problem, but the unwritten kind of statistics we see are alarming."

"You are doing a destructive process," said Dr. William Benbow Thompson of the University of California at Irvine. "Arms, legs, chests come out in the forceps. It's not a sight for everybody."

Not all doctors think the stressfulness is overwhelming. The procedure "is a little bit unpleasant for the physician," concedes Dr. Mildred Hanson, a petite woman in her early 50s who does eight to 10 abortions a day in a clinic in Minneapolis, just a few miles across town from where Butler works. "It's easier to . . . leave someone else—namely a nurse—to be with the patient and do the dirty work.

"There is a lot in medicine that is unpleasant" but necessary—like amputating a leg—she argues, and doctors shouldn't let their own squeamishness deprive patients of a procedure that's cheaper and less traumatic.

However, Dr. Nancy Kaltreider, an academic psychiatrist at the University of San Francisco, has found in several studies "an unexpectedly strong reaction" by the assisting staff to late-abortion procedures. For nurses, she hypothesizes, handling tissues that resemble a fully formed baby "runs directly against the medical emphasis on preserving life."

The psychological wear-and-tear from doing late abortions is obvious. Philadelphia's Dr. Bolognese, who seven years ago was recommending wrapping abortion liveborns in a towel, has stopped doing late abortions.

"You get burned out," he said. Noting that his main research interest is in the management of complicated obstetrical cases, he observed: "It seemed kind of schizophrenic, to be doing that on the one hand (helping women with problem pregnancies to have babies) and do abortions."

Dr. John Franklin, medical director of Planned Parenthood of Southeastern Pennsylvania, was the plaintiff in a 1979 Supreme Court case liberalizing the limits on late abortions. He does not do such procedures himself. "I find them pretty heavy weather both for myself and for my patients," he said in an interview.

Dr. Kerenyi, the New York abortion expert, who is at Mt. Sinai Hospital, has similar feelings but reaches a different conclusion. "I first of all take pride in my deliveries. But I've seen a lot of bad outcomes in women who did not want their babies—so I think we should help women who want to get rid of them. I find I can live with this dual role."

The legal jeopardy, the emotional strain, the winking neglect with which "signs of life" must be met—all these things nurture secrecy. Late abortions take place "behind a white curtain," as one prosecutor put it, well sheltered from public view.

Only one large-scale study has been done of live births after abortions—by George Stroh and Dr. Alan Hinman in upstate New York from July 1970 through December

1972 (a period during which abortion was legal in New York alone). It turned up 38 cases of live births in a sample of 150,000 abortions.

Other studies, including one that found signs of life in about 10 percent of the prostaglandin abortions at a Hartford, Conn., hospital, date from the mid-1970s. No one is so naive as to think there is reliable voluntary reporting of live births in the present climate, according to Dr. Cates of the Center for Disease Control.

Evidence gathered during research for this story suggests, without proving definitively, that much of the traffic in late abortions now flows to the New York and Los Angeles metropolitan areas, where loose practice more easily escapes notice.

"The word has spread," the Daily Breeze, a small Los Angeles suburban paper, said in July 1980, "that facilities in greater Los Angeles will do late abortions. How late only the woman and the doctor who performs them know."

This kind of thing is disturbing even to some people with a strong orientation in favor of legal abortion. For instance, the Philadelphia office of CHOICE, which describes itself as "a reproductive health advocacy agency," will recommend only Dr. Kerenyi's service at Mt. Sinai among the half-dozen in New York offering abortion up to 24 weeks. The others have shortcomings in safety, sanitation or professional standards in the agency's view.

An internal investigation of the abortion unit at Jewish Memorial Hospital in Manhattan showed that six fetuses aborted there in the summer of 1979 weighed more than 1⅓ pounds. The babies were not alive, but were large enough to be potentially viable. A state health inspector found in June 1979 that the unit had successfully aborted a fetus that was well over a foot long and appeared to be of 32 weeks gestation. Hospital officials confirmed in an interview that later in 1979 a fetus weighing more than four pounds had been aborted.

"It's disconcerting," Iona Siegel, administrator of the Women's Health Center at Kingsbrook Jewish Medical Center in Brooklyn, said of abortions performed so late that the infant is viable. When Ms. Siegel hears, as she says she often does, that a patient turned away by Kingsbrook because she was past 24 weeks of pregnancy had an abortion somewhere else, "that makes me angry. Number one, it's against the law. Number two, it's dangerous to the health of the mother."

Though one might expect organized medicine to take a hand in bringing some order to the practice of late abortions, that is not happening.

"We're not really very pro-abortion," said Dr. Ervin Nichols, director of practice activities for the American College of Obstetrics and Gynecology. "As a matter of fact, anything beyond 20 weeks, we're kind of upset about it."

If abortions after 20 weeks are a dubious practice, how does that square with abortion up to 24 weeks being offered openly in Los Angeles and new York and advertised in newspapers and the Yellow Pages there and elsewhere?

"That's not medicine." Nichols replied. "That's hucksterism."

Cates, of the Center for Disease Control, concedes that he has ambivalent feelings about those who do the very late procedures. There is obviously some profiteering and some bending of state laws forbidding abortions in the third trimester. But since late abortions are hard to get legally in many places, Cates puts a low priority on trying to policy such practices. Medical authorities leave the late abortion practioners to do what they will. And so, too, by necessity, do the legal authorities.

The Supreme Court framed its January 1973 opinion legalizing abortion around the slippery concept of viability. As defined by Justice Harry Blackmun in the landmark *Roe* vs. *Wade* case, viability occurs when the fetus is "potentially able to live outside the mother's womb albeit with artificial aid."

The court granted women an unrestricted right to abortions, as an extension to their right of privacy, in the first trimester of pregnancy. From that point to viability, the state can regulate abortions only to make sure they are safe. And only after a fetus reaches viability can state law limit abortion and protect the "rights" of the fetus.

"Viability," Blackmun wrote, after a summer spent researching the matter in the library of the Mayo Clinic, "is usually placed at about seven months (28 weeks) but may occur earlier, even at 24 weeks."

The standard was meant to be elastic, changing in time with medical advances. Blackmun took no particular account, though, of the possibility of abortion live births, or of errors in estimating gestational age.

In subsequent cases, the high court ruled that:

A Missouri law was too specific in forbidding abortion after 24 weeks. "It is not the proper function of the legislature or the court," Blackmun wrote, "to place viability, which essentially is a medical concept, as a specific point in the gestational period."

A Pennsylvania law was too vague. The law banned abortions "if there is sufficient reason to believe that the fetus may be viable." The court said it was wrong to put doctors in jeopardy without giving them clearer notice of what they must do.

State laws could not interfere with a doctor's professional judgment by dictating the choice of procedure for late abortions or by requiring aggressive care of abortion live births.

According to a 1979 survey by Jeanie Rosoff of Planned Parenthood's Alan Guttmacher Institute, 30 states have laws regulating third-trimester abortions. Some of these laws prohibit or strictly limit abortions after the fetus has reached viability. Some require doctors to try to save abortion live-born babies. Only a few states have both types of laws.

In addition, a number of these laws have been found unconstitutional. Others obviously would be, in light of Supreme Court rulings. Virtually all the state laws would be subject to constitutional challenge if used as the basis of prosecution against an individual doctor.

New York and California, ironically, have among the strongest, most detailed laws mandating care for survivors of abortions. But these laws have proved only a negligible check on the abortion of viable babies.

"We've had a number of claims come up that a baby was born live and full effort was not given to saving it," said Dr. Michael Baden, former chief medical examiner of New York City. "We've not had cases of alleged strangulation [as with Dr. Waddill in California] and that surely must be rare. All [the doctor] has to do is nothing and the result is the same."

Alan Marrus, a Bronx county assistant district attorney, has investigated several live-birth cases and the applicable New York law. He has yet to find "a case that presented us with facts that warranted prosecution. You need an expert opinion that in fact there was life and that the fetus would have survived. Often the fetus has been destroyed—so there is nothing for your expert witness to examine."

The incidents only come to light at all, Baden and Marrus noted, if some whistleblower inside the hospital or clinic brings them to the attention of the legal authorities. The credibility of that sort of witness may be subject to attack. And even if the facts do weigh against a doctor, he has some resources left. Almost always he can claim to have made no more than a good-faith error in medical judgment.

"This is happening all over the place," said a California prosecutor. "Babies that should live are dying because callous physicians let them die." But he despairs of winning any convictions. "Nobody's as dumb as Waddill. They're smarter today. They know how to cover themselves."

Unfortunately, advances in medical technique may only aggravate the overall problem. Fetuses are becoming viable earlier and earlier, while the demand for later abortions shows no signs of abating. Some argue that Justice Blackmun's definition of viability as "usually seven months" was obsolete the day it was published. It clearly is now.

A decade ago, survival of an infant less than 3 pounds or 30 weeks gestation was indeed rare, principally because the lungs of smaller infants, unaided, are too undeveloped and fragile to sustain life. Now, infants with birth weights of about 1⅔ pounds routinely survive with the best of care, according to Dr. Richard Behrman, chief of neonatology at Rainbow Babies and Childrens Hospital in Cleveland and chairman of a national commission that studied viability in the mid-1970s.

Sometimes even smaller babies make it, and the idea that most of them will be retarded or disabled is out-of-date, Behrman said, "Most . . . survive intact."

Even with the medical advances though, some live-born infants are simply too small and undeveloped to have a realistic chance to survive. A survey last year of specialists in neonatal care found that 90 percent would not order life-support by machine for babies smaller than 1 pound 2 ounces or less than 24 weeks gestation. And on occasion, a newborn may manifest muscular twitches or gasping movements without ever "being alive" according to the usual legal test of drawing a breath that fills the lungs.

Still, it is no longer a miracle for an infant of 24 weeks development (which can be legally aborted) to be saved if born prematurely.

"It is frightening," said Dr. Roger K. Freeman, medical director of Women's Hospital at the Long Beach Memorial Medical Center in Long Beach, Calif. "Medical advances in the treatment of premature babies enable us to save younger fetuses than ever before. When a fetus survives an abortion, however, there may be a collision of tragic proportions between medicine and maternity. Medicine is now able to give the premature a chance that may be rejected by the mother."

In 1970, Freeman developed the fetal stress test, a widely used technique for monitoring the heart rate of unborn fetuses. Also, he and a colleague at Long Beach, Dr. Houchang D. Mondalou, have developed a drug, betamethzene, that matures lungs within days instead of weeks. The hospital

claims a 90 percent success rate with infants weighing as little as 1 pound 11 ounces.

At the University of California at Irvine, work is under way on an "artificial placenta" that doctors there say could, within five years, push the threshold of viability back even further.

The life-saving techniques are not exclusive to top academic hospitals, either. Good neonatal care is now broadly available across the United States. In fact, the lively issue in medical circles these days is not whether tiny premature babies can be saved, but whether it is affordable. Bills for the full course of treatment of a two-pound infant typically run between $25,000 and $100,000. To some that seems a lot to pay, especially in the case of an abortion baby that was not wanted in the first place.

The only way out of the dilemma, it would seem, would be for fewer women to seek late abortions. Though some optimists argue that this is happening, there is evidence that it is not.

Studies show that women seeking abortions late in the second trimester are often young, poor and sexually ignorant. Many either fail to realize they are pregnant or delay telling their families out of fear at the reaction. The patients also include those who have had a change of circumstance or a change of heart after deciding initially to carry through a pregnancy; some of these women are disturbed.

As first-trimester abortion and sex education become more widely available, the optimists' argument goes, nearly all women who choose abortion will get an early abortion. But in fact a new class of older, well-educated, affluent women has now joined the hardship cases in seeking late abortions.

This is because a recently developed technique, amniocentesis, allows genetic screening of the unborn fetus for various hereditary disease. Through this screening, a woman can learn whether the child she is carrying is free of such dreaded conditions as Downs syndrome (mongolism) or Tay-Sachs disease, a genetic disorder that is always fatal, early in childhood.

The test involves drawing off a sample of amniotic fluid, in which the fetus is immersed in the womb. This cannot be done until the 15th of 16th week. Test cultures for the various potential problems take several weeks to grow. Sometimes the result is inconclusive and the test must be repeated. The testing also reveals the unborn child's sex and can be used to detect minor genetic imperfections.

To many women, particularly those over 35, amniocentesis seems a rational approach to minimizing the chances of bearing a defective child. A few, according to published reports, go a step further and make sure the baby is the sex they want before deciding to bear the child.

In any case, it is late in the second trimester—within weeks of the current threshold of visability—before the information becomes available on which a decision is made to abort or not abort. The squeeze will intensify as amniocentesis becomes more widely available and as smaller and smaller infants are able to survive.

The abortion live-birth dilemma has caught the attention of several experts on medical ethics, and they have proposed two possible solutions.

The simplest, advocated by Dr. Sissela Bok of the Harvard Medical School among others, is just to prohibit late abortions. Taking into account the possible errors in estimating gestational age, she argues, the cutoff should be set well before the earliest gestational age at which infants are surviving.

Using exactly this reasoning, several European countries—France and Sweden, for example—have made abortions readily available in the first three months of pregnancy but very difficult to get thereafter. The British, at the urging of Sir John Peel, an influential physician-statesman, have considered in each of the last three years moving the cutoff date from 28 weeks to 20 weeks, but so far have not done so.

But in this country, the Supreme Court has applied a different logic in defining the abortion right, and the groups that won that right would not cheerfully accept a retreat now.

A second approach, advocated by Mrs. Bok and others, is to define the woman's abortion right as being only a right to terminate the pregnancy, and to have the fetus dead. Then if the fetus is born live, it is viewed as a person in its own right, entitled to care appropriate to its condition.

This "progressive" principle is encoded in the policies of many hospitals and the laws of some states, including New York and California. As the record shows, though, in the alarming event of an actual live birth, doctors on the scene may either observe the principle or ignore it.

And the concept even strikes some who do abortions as misguided idealism.

"You have to have a feticidal dose" of saline solution, said Dr. Kerenyi of Mt. Sinai in New York. "It's almost a breach of contract not to. Otherwise, what are you going to do—hand her back a baby having done it questionable damage? I say, if you can't do it, don't do it."

The scenario Kerenyi describes did in fact happen, in March 1978 in Cleveland. A young woman entered Mt. Sinai Hospital there for an abortion. The baby was born live and, after several weeks of intensive care at Rainbow Babies and Childrens Hospital, the child went home—with its mother.

The circumstances were so extraordinary that medical personnel broke the code of confidentiality and discussed the case with friends. Spokeswomen for the two hospitals confirmed the sequence of events. Mother and child returned to Rainbow for checkup when the child was 14 months old, the spokeswoman there said, and both were doing fine.

The mother could not be reached for comment. But a source familiar with the case remembered one detail: "The doctors had a very hard time making her realize she had a child. She kept saying, 'But I had an abortion.' "

## CONGRESSIONAL GOLD MEDAL FOR NATAN AND AVITAL SHCHARANSKY

● Mr. D'AMATO. Mr. President, as Chairman of the Commission on Security and Cooperation in Europe, I am pleased to join as a cosponsor of S. 2308, legislation which would authorize the awarding of the Congressional Gold Medal to Natan and Avital Shcharansky in recognition of their dedication to human rights.

Natan and Avital Shcharansky have displayed a unique sense of determination and commitment with respect to the preservation of individual human rights. They have paid dearly for their stance. It is only fitting that the United States formally recognize their tireless efforts to promote human rights and freedom by awarding them the Congressional Gold Medal.

Natan was a founding member of the Moscow Helsinki Monitoring Group, a voluntary, unofficial organization established by Soviet human rights advocates to monitor and improve Soviet compliance with the Helsinki Final Act. These accords, signed by 35 nations, including the United States and the Soviet Union, contain a number of key human rights provisions. In addition to his work with the monitoring group, Shcharansky has been a vocal spokesman for members of the Jewish community in the U.S.S.R.

On March 4, 1977, the Soviet Government newspaper Izvestia published an open letter accusing Shcharansky of espionage. The following week, he was picked up by the Soviet secret police and taken to Moscow's Lefortovo Prison where he spent the next 16 months. Suddenly, at 29, Scharansky found himself charged as a spy under article 64 of the criminal code and facing a possible death sentence.

Pressed by his jailers to "account for his criminal activity." Natan repeatedly denied any wrongdoing. During the course of his confinement at Lefortovo he was subjected to 110 interrogation sessions, each lasting from 2 to 10 hours. He was denied any communication with his family. Despite attempts by the KGB to convince him that his friends in the human rights movement and the West had abandoned him, Shcharansky continued to refuse to cooperate with his captors and to profess his innocence.

After months of isolation in Lefortovo, Natan was granted an open trial and the right to defend himself. At the conclusion of the 5-day trial, sentence was pronounced—13 years in prison and labor camp for treason, espionage, and anti-Soviet agitation. His final words in the Moscow courtroom were directed to his wife Avital, "Next year in Jerusalem."

Avital, the sister of a fellow Soviet dissident, had been granted permission to emigrate to Israel the day after their marriage in 1974. The state, however, refused to permit Shcharansky to join her. Separated from her husband, Avital began a heroic campaign to win Natan's release.

Following the trial, Shcharansky was transferred to Chistopol Prison located 500 miles from Moscow. After 2 years of imprisonment, he was sent to Perm Camp No. 35, a special labor camp for political prisoners near Vsesvyatskaya. Rejecting attempts by the KGB to coopt him, Shcharansky was the subject of increasingly harsh treatment by KGB thugs who served as his jailers.

In 1981, they forced him to turn over his prayer book, a gift from his beloved Avital. The authorities insisted that "religion is a bad influence, so we will save you from it." Shcharansky began a hunger strike in protest. As a result, he was given 130 days in solitary confinement, fed only every other day, and exposed to extreme cold temperatures. On the 92d day of his confinement, Shcharansky collapsed.

The following year he conducted a 110-day-long hunger strike until Soviet authorities allowed him to resume correspondence with this family. During 1985, he engaged in another hunger strike over mail priviledges.

Although he remained mentally alert, each hunger strike took its toll. In total, Shcharansky spent 400 days in solitary confinement. During his 8 years of imprisonment, he was permitted only six visits from his mother, Ida Milgrom.

Meanwhile, Avital persisted in her efforts to secure freedom for Anatoly. I had the privilege to meet with her on a number of occasions to discuss her husband's plight.

Finally, after years of sustained effort to secure his release, Natan Shcharansky crossed Berlin's Glienicke Bridge to freedom last February and realized his dream of being reunited with Avital in Jersusalem. But the struggle is not over.

An estimated 400,000 Soviet Jews have indicated their desire to leave the Soviet Union; hundreds of thousands of others would do so if they could without facing severe persecution. Yet, Jewish emigration has fallen to a mere trickle; only 1,139 Jews were granted permission to emigrate from the U.S.S.R. last year.

The situation remains bleak. Thus far, in 1986, 210 Soviet Jews have been issued exit visas; 79 in January, 84 in February, and 47 in March. At the same time, Soviet authorities continue their campaign of harassment against those who speak out in defense of human rights. Today, Nobel Peace Prize laureate Andrei Sakharov and the distinguished physicist, Yuri Orlov, languish in internal exile.

Upon his arrival in Israel, Shcharansky vowed that, "I am not going to forget those who I left in the camps, in the prisons, who are still in exile or who still continue their struggle for their right to emigrate, for their human rights. And I hope that that enthusiasm, that energy, that joy which fills our hearts today, Avital's and mine, will help us to continue the struggle for the freedom and the rights of our brothers in Russia."

The Soviet authorities failed to break the free spirit of Natan and Avital Shcharansky. I call upon my colleagues in the U.S. Senate and all Americans to recognize this brave couple for their steadfast dedication to freedom and promotion of human rights.●

## STOPPING THE SALE OF THE FEDERAL POWER MARKETING ADMINISTRATIONS

● Mr. ABDNOR. Mr. President, I am joining my good friend from Washington, Mr. EVANS, in introducing legislation prohibiting the transfer or sale of the Federal Power Marketing Administrations for a 10-year period. This legislation would terminate the ludicrous proposal to sell off our power-generating systems.

The "privatization" of the power marketing agencies is a costly proposal to the American consumer. According to the American Public Power Association, the proposal would increase consumers costs by 68 to 390 percent. This is definitely not in the best interest of the American people.

In South Dakota, it is estimated that consumer electrical costs would rise by as much as $600 a year. No one needs to be reminded of the farm problem, and we do not need to push the farm State citizens into worse economic conditions. The administration proposal to sell the power marketing agencies must be stopped, and this legislation would bury that proposal for a long, long time.

Mr. President, I submit the following letter to the editor, which appeared in the Woonsocket News, for the CONGRESSIONAL RECORD. I believe Mr. Vernon Berg summarizes how the people of South Dakota feel toward this proposal.

Mr. President, I thank my colleague, Mr. EVANS, for his hard work on this legislation, and I look forward to, once and for all, putting this administration proposal to rest.

The letter follows:

LETTERS TO EDITOR

Dear Editor: The Reagan Administration is proposing the sale of federal hydroelectric facilities to private interests.

The President's budget for fiscal year 1987, sent to Congress early in February, proposes the 'privatization' of all five federal power marketing administrations including the Western Area Power Administration which markets Missouri River hydropower in this region.

I believe the President's proposal to help balance the budget with a 'one time' sale of our hydroelectric dams is short-sighted and ill advised. It puts additional costs upon rural people while claiming to authorize no new taxes.

Your readers deserve to know that the federal investment in the hydroelectric facilities is being repaid to the U.S. Treasury, with interest, and the sale of these facilities would eliminate a reliable source of revenue to the Treasury.

If because of the sale of those facilities the rural electric cooperatives and municipal systems of South Dakota lose their share of federal hydropower, electric rates could increase by $70 million or as much as $600 a year for each consumer of these systems.

As concerned citizens, we want a fair national budget. We want to send a clear message to Congress that we say "no sale" of our federal power system.

VERNON BERG,
*Director, Intercounty REA,*
*Woonsocket, So. Dak.*●

## THE SALT II DECISION

● Mr. CHAFEE. Mr. President, news reports today indicate that President Reagan has made a tentative decision to order the dismantling of two Poseidon submarines before the U.S.S. *Nevada*, the newest Trident submarine, begins sea trials on May 20. If these reports are accurate, this news means that the President has once again decided not to break out of the SALT II arms limits which both the United States and the Soviet Union have been observing ever since the treaty was signed.

I certainly hope that the reports are correct, and if they are, I applaud the President for his wisdom in recognizing the great value of the mutual restraint policy. A decision not to undercut the SALT limitations will keep us on the road to another United States-Soviet summit and a new arms control treaty.

The SALT II treaty was never ratified by the Senate. In fact, if it had been ratified it would have expired on December 31, 1985. But both the United States and the Soviet Union have pursued a policy of observing the treaty's limits, an arrangement which has, decidedly, worked to the benefit of the United States. Since 1973 the Soviets have dismantled 539 operational missile launchers in order to stay within SALT limits, while the United States has dismantled only 16. The 16 launchers on the U.S. side were dismantled last June when the President was first faced with a decision of this kind. At that time, he wisely decided to hold the course on arms control and continue with mutual restraint.

Were we to break out of the SALT limits, we would gain nothing and lose a great deal. The two Poseidons which will be dismantled if the President makes a final decison to adhere to SALT are old submarines which soon would have to undergo significant overhaul to remain functional. In dismantling them we do not create any military risk, especially since they will be replaced by a Trident with far superior capabilities. Discarding SALT, however, would mean taking the lid off the arms race, and allowing the Soviets to race ahead in arms production.

The fact is that the Soviets have the ability to exceed the SALT limitations much faster than the United States. They have more "hot" production lines poised to build up their nuclear arsenal, and have weapons—such as the SS-18—to which they could add many warheads very quickly. With

mutual observance of SALT, we would most likely see a new, costly arms race in which the Soviets would race out to an early and dangerous lead.

Some have urged the President to let SALT II fall by the wayside because of possible Soviet violations of the treaty's provisions. I believe that these possible violations, including encryption of test data and possible deployment of two new ICBM's, must be treated seriously. In my view, however, they do not justify scrapping the entire arrangement. The Standing Consultative Commission was established to address exactly these kinds of issues, and I believe we should use it, in addition to regular diplomatic channels, to resolve disputes over violations.

If the President has indeed decided to order the dismantling of two Poseidons, he has made exactly the right decision, and all of America should be pleased with the decision. In holding to the SALT II arrangement, the United States moves closer to a Reagan-Gorbachev summit and reaffirms its belief in true arms control.●

## ORDERS FOR TUESDAY, APRIL 22, 1986

RECESS UNITL 11 A.M.

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Tuesday, April 22, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. GORTON. I ask unanimous consent that following the recognition of the two leaders under the standing order, there be special orders in favor of the following Senators for not to exceed 5 minutes each: HAWKINS, CRANSTON, LEVIN, RIEGLE, and PROXMIRE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. GORTON. I ask unanimous consent that following the special orders just identified, there be a period for the transaction of routine morning business not to exceed beyond the hour of 12 noon, with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FROM 12 NOON TO 2 P.M.

Mr. GORTON. I ask unanimous consent that the Senate stand in recess between the hours of 12 noon and 2 p.m. tomorrow in order for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. GORTON. Mr. President, when the Senate reconvenes at 2 p.m., it will be the intention of the majority leader to turn to any of the following items:

House message to accompany S. 49, the gun bill; resume consideration of the budget resolution, Senate Concurrent Resolution 120 at 2 p.m.; Executive nomination of Donald Newman.

Therefore, rollcall votes may be expected throughout the day.

Mr. President, to clarify, it will be the intention of the majority leader to resume consideration of Senate Concurrent Resolution 120 at 2 p.m. and it is possible that he may attempt to bring up the nomination of Donald Newman in the latter part of the morning tomorrow.

## RECESS UNTIL 11 A.M. TOMORROW

Mr. GORTON. Mr. President, does the Democratic leader have anything further?

Mr. BYRD. Mr. President, I thank the distinguished acting majority leader. I have nothing further from this side of the aisle.

Mr. GORTON. Mr. President, I therefore ask unanimous consent that the Senate stand in recess until 11 a.m. tomorrow.

There being no objection, the Senate, at 5:16 p.m., recessed until tomorrow, Tuesday, April 22, 1986, at 11 a.m.

# HOUSE OF REPRESENTATIVES—*Monday, April 21, 1986*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May the spirit of reconciliation and peace be upon us, O God, that our actions will bear the marks of concern, understanding, and graciousness. Even as we speak for which we believe, may we seek to hear Your voice, the voice that transcends all the differences of the peoples of our world and points us in the way of truth. Hear our prayer, O God, as we pray in Your name. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 426. An act to amend the Federal Power Act to provide for more protection to electric consumers;

S. 2251. An act to authorize the Administrator of General Services to convey property to the District of Columbia, and for other purposes;

S. 2319. An act to provide for the continuation of the Martin Luther King, Jr., Federal Holiday Commission until 1989, and for other purposes; and

S. Con. Res. 129. Concurrent resolution expressing the sense of Congress in opposition to certain import restrictions imposed by the European Community that adversely affect U.S. agricultural exports and urging the President to use to the fullest extent his authority to respond to these practices.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolutions on Friday, April 18, 1986:

H.J. Res. 582. Joint resolution to designate April 20, 1986, as "Education Day U.S.A.";

H.J. Res. 599. Joint resolution commemorating the 25th anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny; and

S.J. Res. 303. Joint resolution to designate April 1986, as "Fair Housing Month."

## CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

## DECLARING THAT THE UNITED STATES HOLDS CERTAIN LANDS IN TRUST FOR CERTAIN INDIAN TRIBES OF OKLAHOMA

The Clerk called the Senate bill (S. 1684) to declare that the United States holds certain Chilocco Indian School lands in trust for the Kaw, Otoe-Missouria, Pawnee, Ponca, and Tonkawa Indian Tribes of Oklahoma.

There being no objection, the Clerk read the Senate bill as follows:

S. 1684

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) Except as provided in section 2 of this Act, the Secretary of the Interior shall partition the interests of the United States in the approximately 5,824 acres of land in Oklahoma known as the Chilocco Indian School Reserve among the Cherokee Nation of Oklahoma, and the Pawnee, Ponca, Otoe-Missouria, Kaw, and Tonkawa Tribes of Oklahoma in line with the agreement of August 30, 1985, among those six tribes. The interests which are partitioned to the last five named tribes jointly shall be further partitioned by the Secretary in line with an agreement among those tribes.

(b) The interests partitioned to a tribe under this section are declared to be held in trust by the United States for that tribe.

(c) The Secretary shall publish in the Federal Register a description of the interests in land partitioned and held in trust under this section.

SEC. 2. The interest of the United States in the minerals in the approximately 5,824 acres of land identified in section 1 of this Act are declared to be held in trust jointly for the Cherokee Nation of Oklahoma, and the Pawnee, Ponca, Otoe-Missouria, Kaw, and Tonkawa Tribes of Oklahoma. The Cherokee Nation of Oklahoma shall act for all six tribes in decisions involving those mineral interests. The Secretary shall hold 50 percent of the income from those mineral interests in trust for the Cherokee Nation of Oklahoma and 10 percent of that income in trust for each of the other five tribes.

SEC. 3. Nothing in this Act shall deprive any person of any right or interest in the land identified in section 1.

SEC. 4. The unobligated balance of the income (after provision for payment of maintenance and other costs incurred before the enactment of this Act) derived by the Secretary from the interests in the land identified in section 1 of this Act shall be used in accordance with the provision from the Act of September 10, 1982 (96 Stat. at 839) codified in section 155b of title 25, United States Code (1982 edition) and divided as follows:

(1) of the part of the balance that the Secretary decides is attributed to income from other than mineral interests—

(A) 75 percent shall be used as jointly requested by the governing bodies of the Pawnee, Ponca, Otoe-Missouria, Kaw, and Tonkawa Tribes of Oklahoma; and

(B) 25 percent shall be used as requested by the governing body of the Cherokee Nation of Oklahoma;

(2) of the part of the balance that the Secretary decides is attributed to income from mineral interests—

(A) 50 percent shall be used as jointly requested by the governing bodies of the Pawnee, Ponca, Otoe-Missouria, Kaw, and Tonkawa Tribes of Oklahoma; and

(B) 50 percent shall be used as requested by the governing body of the Cherokee Nation of Oklahoma.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## DECLARING THAT THE UNITED STATES HOLDS CERTAIN LANDS IN TRUST FOR RENO SPARKS INDIAN COLONY

The Clerk called the bill (H.R. 3212) to declare that the United States holds certain lands in trust for the Reno Sparks Indian Colony.

There being no objection, the Clerk read the bill as follows:

H.R. 3212

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) Except as otherwise provided in section 2, all right, title, and interest of the United States in the lands described in subsection (b) of this section are hereby declared to be held by the United States in trust for the benefit and use of the Reno Sparks Indian Colony and are hereby declared to be part of the Reno Sparks Indian Colony.

(b) The lands referred to in subsection (a) comprise approximately 1,948.38 acres of public land within Hungry Valley, Washoe County, Nevada, and are described as follows:

Township 21 north, range 20 east, Mount Diablo baseline and meridian, section 4, 640 acres more or less, reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or actually existing on said premises.

Township 21 north, range 20 east, Mount Diablo baseline and meridian, section 9, 640 acres more or less, reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or actually existing on said premises.

Township 21 north, range 20 east, Mount Diablo baseline and meridian, section 16, 640 acres more or less, reservations, restrictions, and conditions, if any, rights-of-way

and assessors either of record or actually existing on said premises.

Township 19 north, range 20 east, Mount Diablo baseline and meridian, beginning at a point on the north county road right-of-way fenceline described as being 1,268 feet east and 30 feet north of the west quarter corner of section 7 said point being at the intersection of the boundary fence between L.M. Christianson and A.L. Jensen, with said north country road right-of-way line;

thence north 0 degrees 18 minutes west 490.30 feet;

thence west 787.74 feet;

thence south 0 degrees 12 minutes west 490.30 feet to north county road right-of-way fence;

thence along said fenceline 373.16 feet;

thence north 104.35 feet to the north county road right-of-way fenceline 208.71 feet to the place of beginning, containing 8.38 acres more or less, beginning reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or actually existing on said premises.

Township 19 north, range 20 east, Mount Diablo baseline and meridian, beginning at the intersection of the east boundaryline of the west half of the southwest quarter of section 7 with the southline of Scott Street Road, said point being 30 feet south of the northeast corner of said west half of the southwest quarter;

thence south 89 degrees 35 minutes west and along the southline of said Scott Street Road 361.2 feet;

thence south and a parallel with the east boundaryline of said west half of southwest quarter of section 7, 2,326.18 feet south to northline of Glendale Road;

thence south 64 degrees 30 minutes east along the northline of said Glendale Road 400 feet to the eastline of Glendale Road west half of southwest quarter of section 7;

thence north along east boundary line 2,501 feet to the place of beginning containing 20 acres more or less, reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or actually existing on said premises.

SEC. 2. (a)(1) Except as otherwise provided in this section, nothing in this Act shall deprive any person of any right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the land described in the first section on the date preceding the date of enactment of this Act.

(2) Notwithstanding the last sentence of section 402(g) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2774, 43 U.S.C. 1752(g)), within thirty days after the date of enactment of this Act, the Secretary of the Interior shall cancel all grazing permits and leases on the following described land:

Township 21 north, range 20 east, Mount Diablo Meridian, section 4 comprising 640 acres more or less in Washoe County, Nevada.

(b) Within one hundred and twenty days after the date of enactment of this Act, the Secretary of the Interior, in acordance with section 402(g) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2774, 43 U.S.C. 1752(g)), shall pay to the holder of any lease or permit canceled under subsection (a) of this section reasonable compensation, to be determined by the Secretary, for the adjusted value of any improvements which said holder constructed or placed on the land described in subsection (a)(2) of this section and cannot be removed. Such payment shall not exceed the fair market value of the terminated portion of the holder's interest therein.

(c) The Secretary of the Treasury is authorized and directed to pay to the Secretary of the Interior, out of funds in the Treasury of the United States not otherwise appropriated, such sums as the Secretary of the Interior may require to make the payments required under subsection (b) of this section.

(d) The grazing privileges exercised under any grazing permit or lease issued by the Secretary of the Interior on any of the following described lands located within the grazing unit known as Paiute Canyon Grazing Allotment Range, Washoe County, Nevada, prior to the date of enactment of this Act shall not be affected by this Act, and shall continue to be subject to the terms and conditions of such permit or lease, and to the applicable rules, and regulations of the Secretary of the Interior:

Township 21 north, range 20 east, Mount Diablo baseline and meridian, section 9, 640 acres more or less.

Township 21 north, range 20 east, Mount Diablo baseline and meridian, section 16, 640 acres more or less.

(e) The grazing privileges exercised under any grazing permit or lease on the lands described in subsection (d) of this section shall continue to be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the rules and regulations governing grazing permits and leases on the public lands. Such grazing permits or leases may be canceled or modified by the Secretary of the Interior for failure to meet the terms and conditions of such permits or leases or for failure to abide by the applicable rules and regulations of the Secretary of the Interior. If a grazing permit or lease is so canceled, the Secretary of the Interior shall not issue a new grazing permit or lease covering the lands described in subsection (d) of this section.

(f) Grazing fees for the grazing permits and leases on the lands described in subsection (d) of this section shall continue to be payable by the holder of such permit or lease to the Secretary of the Interior at the prevailing rates. Notwithstanding any other provision of law, such fees shall be remitted by the Secretary of the Interior to the Reno Sparks Indian Colony within thirty days after the date on which such fees are paid to the Secretary of the Interior.

(g) The grazing permits and leases on the lands described in subsection (d) of this section shall not be assigned or transferred to any person or organization other than the Reno Sparks Indian Colony.

SEC. 3. (a) Section 1 of the Act of August 9, 1955 (69 Stat. 539, as amended; 25 U.S.C. 415), is amended by inserting ", and lands held in trust for the Reno Sparks Indian Colony," immediately after "Twenty-nine Palms Band of Luiseno Mission Indians,".

(b) Section 164 of the Act of July 14, 1955 (42 U.S.C. 7474), shall be applied without regard to the provisions of the first section of this Act.

With the following committee amendments:

Page 2, line 6, change "1,948.38" to "1,949.39".

Page 4, after line 16, insert the following:

Township 19 north, range 20 east, Mount Diablo baseline and meridian, Section 7, lots 13 through 18, lock D, Granata, Cafferata Subdivision, 1.002 acres, more or less, reservations, restrictions, and conditions, if any, rights-of-way and assessors either of record or existing on said premises.

Page 4, line 25, strike out "grazing permit,".

Page 5, strike out line 11 and insert in lieu thereof the following:

Meridian, section 4, 9, and 16 comprising 1,920 acres more or less

Page 6, beginning on line 7, through page 7, line 21, strike out paragraphs (d), (e), (f) and (g) in their entirety.

Page 8, line 2, strike out the comma inside the quotation mark.

The Committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

## GENERAL LEAVE

Mr. WORTLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

## APPOINTMENT AS MEMBERS OF BIOMEDICAL ETHICS BOARD

The SPEAKER. Pursuant to section 11 of Public Law 99-158, the Chair appoints as members of the Biomedical Ethics Board the following Members on the part of the House:

Mr. WAXMAN of California;
Mr. LUKEN of Ohio;
Mr. ROWLAND of Georgia;
Mr. GRADISON of Ohio;
Mr. TAUKE of Iowa; and
Mr. BLILEY of Virginia.

## AID FOR THE CONTRAS HELD HOSTAGE BY REPUBLICANS

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, today is day 5 of the new hostage crisis. Last Wednesday, the Republican Party took hostage one of its own pieces of legislation, the bill to provide aid for the Contras.

They told us they were doing this because of the urgency of the issue. Today is 5 days after we could have voted on that issue, and we are no further toward resolving it.

I think it will become clearer as we proceed that the reason the Republicans scored in their own end zone last Wednesday, taking us admittedly by surprise, is that they knew they were going to be defeated. They knew that the amendment to be sponsored by the gentleman from Oklahoma would have been passed.

The argument that they had to kill their own bill because of some procedural purity about linkage comes with ill grace from the party that has given us a new tobacco subsidy as part of reconciliation and which, like every other body in the House, uses the tactic of legislative linkage whenever they have the votes for it.

The country does not believe that Nicaragua is a threat to the security of the United States and the hypocrisy of Ronald Reagan appearing to be ready to make war to defend civil liberties is too large also to be believed. So the Republican Party did the only thing they could come last Wednesday. They punted.

Unfortunately, they punted toward their own end zone and the ball is not likely to be recovered.

## DEALING WITH TERRORISM

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the attack on Libya was an administrative, Ronald Reagan, White House, American response to the problem of terrorism. It was almost unanimously endorsed by the people of the United States as a necessary retaliation for all of the acts of madness perpetrated by Qadhafi and his people over a course of decades.

Mr. Speaker, however, the Congress has not done enough to address the issue of terrorism and we owe it to ourselves and to the American people to hone out most of the issues that remain on terrorism.

For instance, before the Judiciary Committee is now pending a piece of legislation that would apply the death penalty to any terrorist anywhere in the world who would kill an American citizen. Through the extradition treaties and through self-help on the part of our own Government, we have the right to try terrorists in our country for killing an American citizen.

I urge every Member to urge the Judiciary Committee to act expeditiously on this, another method that we need to deal with the scourge of terrorism.

## OIL IMPORT FEE

(Mr. WEAVER asked and was given permission to address the House for 1 minute.)

Mr. WEAVER. Mr. Speaker, last year, I introduced a bill, H.R. 1396, that would have levied an import fee on imported oil. I did so for two reasons: One, to raise money to reduce the deficit, and two, as a conservation measure.

Now, because of the convulsions in the oil markets, I believe that such an oil import fee would not be timely. I also fear that it might be used not to reduce the deficit, but to accommodate other spending or tax loopholes, and therefore, I withdraw my support of this bill and ask my cosponsors to find another vehicle to show their support for the bill because I no longer support it.

## MR. ORTEGA'S BAILOUT

(Mr. STRANG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRANG. Mr. Speaker, last week, week before last, we had an opportunity to note that this body was unable to come to its collective mind about the actual menace of a Communist military dictatorship in Central America.

We also noted that Mr. Ortega has bailed us out twice now by showing us what he was; once by going to Moscow, and then by invading Honduras. I am reassured that in the absence of this body being able to come to grips with this situation, Mr. Ortega has once again come to the rescue and sent out his deep and abiding commitment of faith and solidarity to Mr. Mu'ammar Qadhafi.

We thank you, Mr. Ortega.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FRANK). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, April 22, 1986.

## FINANCIAL ASSISTANCE FOR CONTROL OF PLAGUE

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4392), to amend the Public Health Service Act to provide Federal financial assistance for the control of plague.

The Clerk read as follows:

H.R. 4392

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. PLAGUE.

Section 317 of the Public Health Service Act (42 U.S.C. 247b) is amended by adding at the end the following:

"(k) The Secretary, acting through the Director of the Centers for Disease Control, may make grants to and enter into contracts and cooperative agreements with States for the control of plague. For grants, cooperative agreements, and contracts under this subsection there are authorized to be appropriated $1,000,000 for each of the fiscal years 1987 and 1988.".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall take effect on October 1, 1986.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from Colorado [Mr. STRANG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, the purpose of this bill is simply to authorize $1 million a year for the next 2 fiscal years for the control of bubonic plague. Although this deadly disease is rare in the United States, the Centers for Disease Control are now reporting an increase in the number of cases. Animal cases have been reported in 10 States and human cases in 7.

The effects of this disease can be devastating both in human terms and in economic terms. Plague kills, and it is expensive to treat. But with appropriate educational programs and better diagnostic techniques, the Centers for Disease Control believe the disease can be made even rarer to find.

H.R. 4392 provides the CDC and the States with the opportunity to make these needed improvements. Funding for the CDC would allow continued research, evaluation, and implementation of plague control strategies, including the development of improved laboratory testing.

H.R. 4392 is a reasonable and responsible approach to help solve a difficult and deadly problem that many of our Western States are now facing. I urge my colleagues to support the bill and to vote for its passage.

Mr. STRANG. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I rise in opposition to H.R. 4392, legislation that authorizes appropriations for grants to States to eradicate the plague.

My opposition is not based on the dismissal of plague as a legitimate problem, but rather a recognition that the Department of Health and Human Services already has authority to make the grants authorized by this legislation. The Centers for Disease Control at HHS establish priorities for those public health problems which require Federal assistance. Congress has already authorized appropriations for the Centers for Disease Control activities.

It is inappropriate for Congress to be authorizing a million dollars for one particular public health problem, when the experts at the Centers for Disease Control have not even request-

ed it. Further, no hearings were held by the Health and the Environment Subcommittee to determine whether grants to States were the most effective means of addressing the problem of plague.

I urge my colleagues to defeat this measure. It is an ill-advised piece of legislation.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

This amendment was offered in the House of Representatives on an additional occasion and passed this House in the last Congress as part of another bill which did not make it all the way to enactment.

The part of that bill that was introduced at that time and the legislation that is before us today was introduced by our colleague, Congressman RICHARDSON, from the State of New Mexico.

He introduced it because there was a very real problem with this problem of plague in a number of States, including his own. I would take great pleasure in yielding to him at this time to give a further explanation of why this bill is needed, why the funds should be expended at this time for this very specific purpose in order to combat bubonic plague.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I urge my colleagues to joint with me in support of H.R. 4392, a bill to provide financial assistance for the control of the plague.

This legislation has attracted a great deal of interest; most people simply do not believe we have plague in this country. While plague is a relatively rare disease, it is a growing problem. At the turn of the century, there was no plague in this country. By 1986, the Colorado State Health Department has termed plague, and I quote, "the most hazardous infectious environmental disease in Colorado."

At this time, wild rodent plague has been documented in 15 Western States including California, Oregon, Washington, Idaho, Nevada, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, North Dakota, Kansas, Texas, and Oklahoma. While human cases of plague are more geographically clustered in New Mexico, Arizona, California, Colorado, Oregon, Utah, Nevada, and Wyoming, all States with infected rodent populations are at risk of human plague.

The 1983-84 plague surveillance report from the Center for Disease control says there has been "a dramatic increase in the incidence of human plague in the United States between the years 1949-84 and also, 7 of the 71 cases in the 1983-84 period developed secondary plague pneumonia." Plague, in its pneumonic form, is a highly contagious disease—it is spread simply by breathing the same air as an infected person. A young girl, who died from the plague in New Mexico, was in the hospital emergency room waiting for treatment. While she was waiting, she infected 500 people who had to then be treated for plague exposure. The CDC 1983-84 report estimates that 1,263 additional people were exposed to plague by coming into contact with individuals who actually had the disease.

Administration officials contend that grant moneys are available for plague research and prevention—this however, is simply not the case. The New Mexico State Epidemiologist recently wrote me that—

The State Health and Environment Department has written letters of inquiry to the National Science Foundation, the Rockefeller Foundation, and the National Institutes of Health regarding the feasibility of obtaining grants for plague research. Negative responses were received from all the institutions contacted. We support the additional plan of funding allocation to the Center for Disease Control, to be used to initiate active plague surveillance and to study human risk factors for acquiring the disease * * *.

These rejections were given to a State that reports 60 percent of all plague cases each year; the contention that Federal grant funds are already available for plague research ring a bit hollow when you consider these recent denials to the State with the worst plague problems in the country.

CDC projects increasing problems with the plague as Western populations expand and as rural areas are developed. Yet plague can be controlled. In counties where active control methods were employed by CDC, no cases of human plague were reported; however, human plague cases increased dramatically in surrounding counties where no flea and rodent controls were available.

My bill, which would authorize $1 million per year for 2 years to fund grants for plague research, will go a long way toward controlling, and hopefully, eradicating plague. I urge my colleagues to support this much-needed legislation.

□ 1215

Once again, as Chairman WAXMAN mentioned, this bill has been approved in two other vehicles that have passed the House, and it was taken out in a previous bill, to take some of the disease-related issues out of the legislation.

It is a serious problem; it is getting worse; regrettably because of the availability of funds, we have to target this money. If the money is not targeted, this plague research will not take place.

Very simply, I think it is something that, if we can nip in the bud right now, we will all be better off. So I respectfully ask my colleagues on the other side to accept this legislation. I expecially want to commend and thank the gentleman from Colorado [Mr. STRANG] for his efforts.

Mr. Speaker, I am submitting the following factsheet for the RECORD:

FACTSHEET ON THE PLAGUE

Acting Chief of Colorado Department of Health states that "the plague is the most hazardous infectious environmental disease in Colorado."

At this time, wild rodent plague has been documented in 15 western states (California, Oregon, Washington, Idaho, Nevada, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, North Dakota, Kansas, Texas and Oklahoma).

From 1983-84 New Mexico had 42 cases, Arizona 12, California 7, Colorado 4, Utah 3, Oregon 1, Texas 1, Washington 1.

In New Mexico, where 60% of the plague cases are reported, the Director of the Environmental Improvement Division wrote: "Recently, the staff wrote letters of inquiry to the National Science Foundation, the Rockefeller Foundation and the National Institute of Health regarding the feasibility of obtaining a grant for plague research. Negative responses were received from all the institutions contacted. We support the original plan of funding allocation to the Center for Disease Control, to be used to initiate active plague surveillance and to study human risk factors for acquiring the disease, among other things."

The increase in reported plague cases in Colorado will most likely increase due to the high rate growth and the increase in recreational activities in plague-endemic areas.

At least 1,263 persons were considered at risk of infection following known or presumed exposure to patients with the plague from 1983-84.

No human cases have occurred in the treated areas since the control program began in 1979, while human cases increased substantially in surrounding counties.

The first cases of the plague in the United States occurred in 1899 in San Francisco.

Plague is dramatically increasing in the United States. From 1927-1969 there were an average of 3 cases a year. Since 1970 there has been an average of 10 cases a year. In the last six years there have been 137 cases of the plague.

Mr. STRANG. Mr. Speaker, I have no additional requests for time and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, we have no further requests for time, and, therefore, we yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 4392.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## ELECTRIC CONSUMERS PROTECTION ACT OF 1985

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 44) to amend the Federal Power Act to provide for more protection to electric consumers, as amended.

The Clerk read as follows:

*H.R. 44*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

*SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Electric Consumers Protection Act of 1985".*

*SEC. 2. AMENDMENTS TO SECTION 7.*

*Section 7(a) of the Federal Power Act (16 U.S.C. 800(a)) is amended as follows—*

*(1) Insert "original" after "hereunder or".*

*(2) Strike out "and in issuing licenses to new licensees under section 15 hereof" and substitute a comma.*

*SEC. 3. ENVIRONMENTAL CONSIDERATION IN LICENSING.*

*(a) PURPOSES OF LICENSE.—Section 4(e) of the Federal Power Act is amended by adding the following at the end thereof: "In issuing any license under this Part for any project, the Commission shall give equitable treatment with the development purposes for which the license is issued to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality.".*

*(b) CONFORMING AMENDMENT.—Section 10(a) of such Act is amended by striking "purposes; and" and inserting after "recreational" the following: "and other purposes referred to in section 4(e)".*

*(c) FISH AND WILDLIFE PROTECTION, MITIGATION, AND ENHANCEMENT.—Section 10 of the Federal Power Act (16 U.S.C. 803) is amended by adding at the end the following:*

*"(j)(1) That in order to adequately protect, mitigate damages to, and enhance, fish and wildlife (including related spawning grounds and habitat) affected by the development, operation, and management of the project, in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which the license is issued, each license, exemption, or permit issued under this Part shall include conditions for such protection, mitigation, and enhancement. Subject to paragraph (3) and section 30, such conditions shall be based on recommendations received pursuant to the Fish and Wildlife Coordination Act from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.*

*"(2) The requirements of section 4(h)(11) of the Pacific Northwest Electric Power Planning and Conservation Act shall apply as provided in that Act to any license, exemption, or permit issued under this Part for a project within the area subject to that Act.*

*"(3) Whenever the Commission believes that any recommendation referred to in paragraph (1) may be inconsistent with the purposes and requirements of this part or other applicable law, the Commission and the agencies referred to in paragraph (1) shall attempt to resolve any such inconsistency, giving due weight to the recommendations, expertise, and statutory responsibilities of such agencies. If, after such attempt, the Commission does not adopt in whole or in part a recommendation of any such agency, the Commission shall publish each of the following findings (together with a statement of the basis for each of the findings):*

*"(A) A finding that adoption of such recommendation is inconsistent with the purposes and requirements of this Part or with other provisions of law applicable to the project.*

*"(B) A finding that the conditions selected by the Commission comply with the requirements of paragraph (1).*

*Subsection (i) shall not apply to the conditions required under this subsection.".*

*SEC. 4. RELICENSING PROCEDURES.*

*(a) CONFORMING AMENDMENT.—Section 15(a) of the Federal Power Act is amended by striking out "original" in each place it appears and substituting "existing".*

*(b) RELICENSING PROCESS.—Section 15 of the Federal Power Act is amended by inserting "(1)" after "(a)" and by adding the following at the end of subsection (a):*

*"(2) Any new license issued under this section shall be issued to the applicant having the final proposal which the Commission determines is best adapted to serve the public interest. In making this determination under this section (whether or not more than one application is submitted for the project), the Commission shall consider and make findings respecting each of the following:*

*"(A) The abilities of each applicant to comply with (i) the articles, terms, and conditions of any license issued to it as a result of the application and (ii) other applicable provisions of this Part.*

*"(B) The plans of each applicant to manage, operate, and maintain the project safely and in accordance with this Act and the terms and conditions of the license.*

*"(C) The need of each applicant for the electric power generated by the project or projects. In the case of an applicant that is an Indian tribe applying for a license for a project located on the tribal reservation, a statement of the need of such tribe for electricity generated by the project to foster the purposes of the reservation may be included.*

*"(D) The plans of each applicant for the improvement and broad, efficient, and reliable utilization of the power potential of the waterway or waterways to which the project is related, together with other beneficial uses, including navigation, flood control, irrigation, recreation, water quality, and fish and wildlife.*

*"(E) The existing and planned transmission services of each applicant, taking into consideration system reliability, costs, and other applicable economic and technical factors.*

*"(F) In the case of a State or municipal applicant, or an applicant which is primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities), the electricity consumption efficiency improvement program of the applicant, including its plans, performance and capabilities for encouraging or assisting its customers to conserve electricity cost-effectively, taking into account the published policies, restrictions, and requirements of relevant State regulatory authorities applicable to such applicant.*

*"(G) The plans of each applicant to protect, mitigate damage to, and enhance fish and wildlife resources (including related spawning grounds and habitat) and to protect and enhance recreational and other environmental values (including providing recreational access).*

*"(H) The identity of any Federal or Indian lands included in the project boundary and a statement of the annual fees paid for such lands.*

*"(I) Plans of each applicant to adapt the project to any applicable State or Federal comprehensive plan (or plan issued pursuant to the Pacific Northwest Electric Power Planning and Conservation Act of 1980) for improving, developing, or conserving the waterway or waterways related to the project.*

*"(J) Such other information as the Commission may require.*

*"(3) In the case of an application by the existing licensee, the Commission shall also take into consideration each of the following:*

*"(A) The existing licensee's record of compliance with the terms and conditions of the existing license.*

*"(B) The actions taken by the existing licensee related to the project which affect the public.*

*"(b)(1) Each existing licensee shall notify the Commission whether the licensee intends to file an application for a new license or not. Such notice shall be submitted at least 5 years before the expiration of the existing license.*

*"(2) At the time notice is provided under paragraph (1), the existing licensee shall make each of the following reasonably available to the public for inspection at the offices of such licensee: current maps, drawings, data, and other information that the Commission shall, by rule, require regarding the construction and operation of the licensed project. Such information shall include, to the greatest extent practicable, pertinent energy conservation, recreation, fish and wildlife, and other environmental information. Copies of the information shall be made available at reasonable costs of reproduction. Within 180 days after the enactment of the Electric Consumers Protection Act of 1985, the Commission shall promulgate regulations regarding the information to be provided under this paragraph.*

*"(3) Promptly following receipt of notice under paragraph (1), the Commission shall provide public notice of whether an existing licensee intends to file or not to file an application for a new license. The Commission shall also promptly notify the National Marine Fisheries Service and the United States Fish and Wildlife Service, and the appropriate State fish and wildlife agencies.*

*"(c)(1) Each application for a new license pursuant to this section shall be filed with the Commission at least 24 months before the expiration of the term of the existing license. Each applicant shall consult with the fish and wildlife agencies referred to in subsection (b) and, as appropriate, conduct studies with such agencies. Within 60 days after the statutory deadline for the submission of applications, the Commission shall issue a notice establishing expeditious procedures for relicensing and a deadline for submission of final amendments, if any, to the application.*

*"(2) The time periods specified in this subsection and in subsection (b) shall be adjusted, in a manner to achieve the objectives of this section, by the Commission by rule or order with respect to existing licensees who, by reason of the expiration dates of their licenses, are unable to comply with a specified time period.*

"(d)(1) In evaluating applications for new licenses pursuant to this section, the Commission shall not consider whether an applicant has, or has access to, adequate transmission facilities.

"(2) When the Commission issues a new license (pursuant to this section) to an applicant which is not the existing licensee of the project and finds that it is not feasible for the new licensee to utilize the energy from such project without provision by the existing licensee of reasonable services, including transmission services, the Commission shall give notice to the existing licensee and the new licensee to immediately enter into negotiations for such services and the costs demonstrated by the existing licensee as being related to the provision of such services. It is the intent of the Congress that such negotiations be carried out in good faith and that a timely agreement be reached between the parties in order to facilitate the transfer of the license by the date established when the Commission issued the new license. If such parties do not notify the Commission that within the time established by the Commission in such notice (and if appropriate, in the judgment of the Commission, one 45-day extension thereof), a mutually satisfactory arrangement for such services that is consistent with the provisions of this Act has been executed, the Commission shall order the existing licensee to file (pursuant to section 205 of this Act) with the Commission a tariff, subject to refund, ensuring such services beginning on the date of transfer of the project and including just and reasonable rates and reasonable terms and conditions. After notice and opportunity for a hearing, the Commission shall issue a final order adopting or modifying such tariff for such services at just and reasonable rates in accordance with section 205 of this Act and in accordance with reasonable terms and conditions. The Commission, in issuing such order, shall ensure the access necessary for the full and efficient utilization and benefits for the license term of the electric energy from the project by the new licensee in accordance with the license and this Part, except that in issuing such order the Commission:

"(A) shall not compel the existing licensee to enlarge generating facilities, transmit electric energy other than to the distribution system (providing service to customers) of the new licensee identified as of the date one day preceding the date of license award, or require the construction of new facilities, including the upgrading of existing facilities other than any reasonable enhancement or improvement of existing facilities necessary to carry out the purposes of this paragraph;

"(B) shall not adversely affect the continuity and reliability of service to the customers of the existing licensee;

"(C) shall not adversely affect the operational integrity of the transmission and electric systems of the existing licensee; and

"(D) shall not cause an increase (other than a possible de minimus increase) in the jurisdictional rates of the existing licensee.

Such order shall be for such period as the Commission deems appropriate, not to exceed the term of the license. At any time, the Commission, upon its own motion or upon a petition by the existing or new licensee and after notice and opportunity for a hearing, may modify, extend, or terminate such order.

"(e)(1) When a license is issued pursuant to this section to an applicant other than the existing licensee, the Commission may require the new licensee to provide reasonable compensation to the existing licensee in addition to the amount required to be paid pursuant to subsection (a)(1). All of such compensation may be in money or electric power, or both.

"(2) In providing any compensation under this section, the Commission shall take each of the following into consideration:

"(A) The fact that upon expiration of its license under this Part, the prior licensee has no cognizable legal right to compensation for the license.

"(B) The extent to which the costs of the project have been amortized by the existing licensee.

"(C) The costs to the new licensee of duplicating the hydroelectric facility which is the subject of the license (including all power facilities, dams, and appurtenant structures and equipment), taking into account the remaining useful life of the facility.

"(3) The Commission shall promulgate regulations to implement this subsection. The regulations shall provide guidance for the Commission and applicants to follow in determining reasonable compensation in appropriate cases. Such regulations may provide for such compensation as the Commission finds to be appropriate toward the mitigation of any demonstrated economic loss to the customers of the existing licensee. The regulations shall not establish compensation which discourages competition for a project or provides a windfall for current ratepayers or to the existing or new licensee. The regulations shall be promulgated within 180 days after enactment of the Electric Consumers Protection Act of 1985.".

(c) CONFORMING AMENDMENTS.—(1) Section 15(b) of the Federal Power Act is redesignated as subsection (f).

(2) Section 14(b) of such Act is amended by striking out the first sentence.

SEC. 5. COMMISSION AUTHORITY.

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 31. ENFORCEMENT.

"(a) The Commission shall monitor and investigate compliance with each license and permit issued under this part and with each exemption granted from any requirement of this Part. The Commission shall conduct such investigations as may be necessary and proper in accordance with this Act. After notice and opportunity for hearing, the Commission may issue such orders as necessary to require compliance with the terms and conditions of licenses and permits issued under this Part and with the terms and conditions of exemptions granted from any requirement of this Part.

"(b) After notice and opportunity for an evidentiary hearing, the Commission may also issue an order revoking any license or permit issued under this part or any exemption granted from any requirement of this Part where any licensee, permittee, or exemptee is found by the Commission:

"(1) to have knowingly violated a final order issued under subsection (a) after completion of judicial review (or the opportunity for judicial review); and

"(2) to have been given reasonable time to comply fully with such order prior to commencing any revocation proceeding.

In any such proceeding, the order issued under subsection (a) shall be subject to de novo review by the Commission. No order shall be issued under this subsection until after the Commission has taken into consideration the nature and seriousness of the violation and the efforts of the licensee to remedy the violation.

"(c) Any licensee, permittee, or exemptee who violates or fails or refuses to comply with any requirement, rule, regulation, term, or condition referred to in subsection (a) or any order issued under subsection (a) shall be subject to a civil penalty in an amount not to exceed $10,000 for each day that such violation or failure or refusal continues. Such penalty shall be assessed by the Commission after notice and opportunity for public hearing. The Commission may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the licensee to remedy the violation in a timely manner. No civil penalty shall be assessed where revocation is ordered.".

SEC. 6. AMENDMENTS CONCERNING CONDUITS AND CERTAIN SMALL POWER PRODUCTION FACILITIES SUBJECT TO PURPA BENEFITS.

(a) NMFS.—Section 30(c) of the Federal Power Act (16 U.S.C. 823a) is amended by inserting "National Marine Fisheries Service" after "the Fish and Wildlife Service" in both places such term appears.

(b) STATE OR LOCAL CONDUITS.—Section 30(b) of the Federal Power Act is amended by inserting after "15 megawatts" the following: "(40 megawatts in the case of a facility constructed, operated, and maintained by an agency or instrumentality of a State or local government solely for water supply for municipal purposes)".

(c) DEFINITIONS.—Section 3(17) of the Federal Power Act is amended as follows:

(A) Insert "and" at the end of clause (ii) of subparagraph (C).

(B) Add the following at the end of subparagraph (C):

"(iii) which complies with the applicable provisions of section 30(e) of this Act in the case of a hydroelectric generating facility involving the impoundment or diversion of the water of a natural watercourse by means of a new dam or diversion;".

(C) Add the following after subparagraph (D):

"(E) 'new' when used with respect to a dam or diversion refers to a dam or diversion which—

"(i) is used in connection with any small power production facility; and

"(ii) requires any construction, or enlargement of any impoundment or diversion structure (other than repairs or reconstruction or the addition of flashboards or similar adjustable devices);".

(d) REQUIREMENTS FOR QUALIFICATION OF NEW DAMS AND DIVERSIONS, ETC. FOR PURPA BENEFITS.—Section 30 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(e) No small power production facility which requires the impoundment or diversion of the water of a natural watercourse by means of a new dam or diversion may be treated as a qualifying small power production facility unless each of the following requirements are met:

"(1) At the time of issuance of the license or exemption for the facility, the Commission includes in such license or exemption terms and conditions in accordance with subsection (c) to protect, mitigate damages to, and enhance fish and wildlife, including related spawning grounds and habitat and finds that the facility, after taking into consideration such terms and conditions and compliance with other environmental re-

quirements of law applicable to such facility and the effects of such combination with other facilities on the same watercourse, will not have substantial adverse effects on the environment, including recreation or water quality. The Commission shall publish the basis for such finding. Such terms and conditions shall be established and enforced in accordance with the same procedures as provided in subsections (c) and (d).

"(2) The Commission determines, at the time of issuance of the license or exemption, that the facility is not located on any segment of a natural watercourse which is included (or is designated by law for potential inclusion) in a State or national wild and scenic river system or which the State has determined, in accordance with applicable State law and prior to issuance of the license or exemption, to possess unique natural, recreational, cultural, or scenic attributes.

This subsection shall not apply for purposes of section 210 of this Act (relating to interconnection authority).".

(e) FEES FOR STUDIES.—Section 30 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(f) The Commission, in addition to the requirements of section 10(e), shall establish fees which shall be paid by an applicant for a license or exemption for a facility referred to in subsection (a) or (e) of this section. Such fees shall be adequate to reimburse the fish and wildlife agencies referred to in subsection (c) for any reasonable costs incurred in connection with any studies or other reviews carried out by such agencies for purposes of compliance with this section. The fees shall, subject to annual appropriations Acts, be transferred to such agencies by the Commission for use solely for purposes of carrying out such studies and remain available until expended.".

(f) UNAUTHORIZED CONSTRUCTION ACTIVITIES.—Section 30 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g) The Commission shall promulgate such rules as may be necessary to prohibit the commencement of any significant modification of any project licensed under, or exempted from, this Act unless such modification is in accordance with the terms and conditions of such license or exemption and the applicable requirements of this Part. As used in this subsection, the term 'commencement' refers to the beginning of physical onsite activity other than surveys or testing."

(g) EFFECTIVE DATES.—(1) The amendments made by subsections (d) and (e) of this section shall not apply to any project the license or exemption application for which was filed and accepted for filing by the Commission before the date of enactment of this Act, but section 10(j) of the Federal Power Act, as added by this Act, shall apply to such project unless the license or exemption was issued on or before the enactment of this Act.

(2) Section 30(e)(2) of the Federal Power Act, as added by this Act, shall not apply to any project for which the environmental consultation (in accordance with applicable regulations of the Federal Energy Regulatory Commission) was initiated on or before the enactment of this Act.

(3) The amendments made by subsection (f) of this section shall apply to all projects licensed, exempted, or permitted under the Federal Power Act without regard to when such license, exception, or permit was issued.

(h) STUDY.—(1)(A) The Commission shall conduct a study (in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969) of whether the benefits of section 210 of the Public Utility Regulatory Policies Act of 1978 and section 210 of the Federal Power Act should be applied to small power production facilities utilizing new dams or diversions (within the meaning of section 3(17) of the Federal Power Act).

(B) The study under this paragraph shall take into consideration the need for such new dams or diversions for power purposes, the environmental impacts of such new dams and diversions (both with and without the application of the amendments made by this Act to sections 4, 10, and 30 of the Federal Power Act), the environmental effects of such facilities alone and in combination with other existing or proposed dams or diversions on the same waterway, the intent of Congress to encourage and give priority to the application of section 210 of Public Utility Regulatory Policies Act of 1978 to existing dams and diversions rather than such new dams or diversions, and the impact of such section 210 on the rates paid by electric power consumers.

(C) The study under this paragraph shall be initiated within 3 months after enactment of this Act and completed as promptly as practicable.

(D) A report containing the results of the study conducted under this paragraph shall be submitted to the Committee on Energy and Commerce of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate while both Houses are in session.

(E) The report submitted under subparagraph (D) shall include a determination (and the basis thereof) by the Commission, based on the study and a public hearing and subject to review under section 313(b) of the Federal Power Act, whether any of the benefits referred to in subparagraph (A) should be available for such facilities and whether applications for preliminary permits (or licenses where no preliminary permit has been issued) for such small power production facilities utilizing new dams or diversions should be accepted by the Commission after the period specified in paragraph (2). The report shall include such other administrative and legislative recommendations as the Commission deems appropriate.

(F) If the study under this paragraph has not been completed within 18 months after its initiation, the Commission shall notify the Committees referred to in subparagraph (D) of the reasons for the delay and specify a date when it will be completed and a report submitted.

(2)(A) The Federal Energy Regulatory Commission shall not accept any application filed under the Federal Power Act after December 31, 1985 for a preliminary permit (or for a license where no preliminary permit has been issued) for a small power production facility utilizing a new dam or diversion (as defined in section 3(17) of the Federal Power Act) until not earlier than 180 consecutive legislative days (during which both Houses of Congress are in session) have elapsed after—

(i) the submittal of such report to Congress, and

(ii) the regulations of the Commission have been revised based on the determination under paragraph (1) and the requirements of sections 4, 10, and 30 of the Federal Power Act, as amended by this Act.

(B) Notwithstanding the expiration of the 180-day period referred to in subparagraph (A), if—

(i) the Commission has determined under paragraph (1)(E) that any small power production facility utilizing a new dam or diversion (as defined in section 3(17) of the Federal Power Act) should be treated as a qualifying small power production facility within the meaning of section 3(17) of such Act, and

(ii) a joint resolution of disapproval of such determination is introduced in both Houses,

such determination shall not be effective until after the adjournment sine die of the Congress in which such resolution was introduced.

(C) In the case of an application for a license for a project (where no preliminary permit has been issued) this paragraph shall not apply to such project if the required environmental consultation (in accordance with applicable regulations of the Federal Energy Regulatory Commission), was initiated before December 31, 1985.

(3)(A) In the case of any preliminary permit referred to in paragraph (1) issued on or before December 31, 1985, such permit shall be suspended temporarily for the period referred to in paragraph (2) if the required environmental consultations (in accordance with the Commission's regulations for such projects) have not been initiated before the enactment of this Act.

(B) The suspensions under subparagraph (A) shall not apply if the Commission, in its discretion, issues a notice within 180 days after such enactment exempting all or some of such permits from such suspension on the grounds that each permittee covered by such notice has proceeded diligently under the permit and has committed substantial resources toward completion of all requirements under the permit.

(C) The suspension under subparagraph (A) shall terminate at the expiration of the period referred to in paragraph (2).

(i) APPLICATION OF CERTAIN SUBSECTIONS.—The provisions of subsections (d), (e), (g), and (h) of this section are applicable only to small power producers and small power production facilities using new dams or diversion (all as defined in section 3(17) of the Federal Power Act) to the extent such producers and facilities obtain the benefits of section 210 of the Federal Power Act and section 210 of the Public Utility Regulatory Policies Act of 1978.

SEC. 7. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect with respect to each license, permit, or exemption issued under the Federal Power Act after the enactment of this Act. The amendments made by section 5 of this Act shall apply to licenses, permits, and exemptions without regard to when issued.

SEC. 8. COMPLIANCE WITH BUDGET ACT

Any provision of this Act (or any amendment made by this Act) which, directly or indirectly, authorizes the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 shall be effective only for fiscal years beginning after September 30, 1986.

SEC. 9. PROVISION OF INFORMATION TO CONGRESS.

The Federal Energy Regulatory Commission shall keep the Committees of Congress which exercise legislative jurisdiction over the Federal Power Act fully and currently informed regarding actions of the Commission with respect to the provisions of part 1 of the Federal Power Act.

*SEC. 10. ELECTION AND NEGOTIATIONS CONCERNING OTHER CONTESTED PROJECTS SUBJECT TO LITIGATION*

*(a) APPLICATION OF SECTION.—This section applies to any relicensing proceeding initiated prior to October 1983 at the Federal Energy Regulation Commission involving the following projects: Mokelumne (No. 137), California; Phoenix (No. 1061), California; Rock Creek/Cresta (No. 1962), California; Haas-King (No. 1988), California; Poole (No. 1388), California; Olmsted (No. 596), Utah; Weber (No. 1744), Utah; Rush Creek (No. 1389), California; and Shawano (No. 710), Wisconsin. The numbers in this subsection refer to Federal Energy Regulatory Commission project identification numbers for the existing licensee. This subsection shall also apply to any subsequent relicensing proceeding for any such project involving the same parties which results from the rejection, without prejudice, of an application in any of the proceedings specified in this subsection.*

*(b) PROVISIONS NOT APPLICABLE IF ELECTION MADE.—If, in the case of each project named in subsection (a), the existing licensee fails to make an election under subsection (c) within 90 days after the enactment of this Act for negotiations under subsection (e), the provisions of the Federal Power Act in effect one day prior to enactment of this Act (and the amendments made by sections 3, 5, and 6(f) of this Act to the Federal Power Act) shall apply to the relicensing proceeding referred to in subsection (a).*

*(c) ELECTION PROCEDURES.—An existing licensee for any project named in subsection (a) may file an election with the Commission under this subsection. The election shall be filed in the manner required by the Commission. The election, subject to subsection (d), shall consist of an agreement that, in the case of the project concerned, the licensee will—*

*(1) enter into good faith negotiations under subsection (e) with each person (or group of persons) who filed a competing application for a new license for the project before October 7, 1983, and*

*(2) be subject to the provisions of this section.*

*Notice of the election to negotiate or the refusal thereof shall be filed with the Commission within the 90-day period.*

*(d) ACCEPTANCE OR REFUSAL TO ACCEPT ELECTION.—Within 45 days after receiving notice from the Commission of an election to negotiate made by the existing licensee under subsection (c) for an applicable project, each competing license applicant (or group of applicants) referred to in subsection (a) may—*

*(1) accept the election, withdraw the competing application, enter into good faith negotiations in accordance with this section, and agree to be subject to the provisions of this section, or*

*(2) refuse to accept such election.*

*If the election to negotiate is not accepted by the competing applicant (or group) within the 45-day period, the relicensing proceeding for such project shall be continued and a new license issued solely in accordance with the Federal Power Act, as amended by this Act (including the amendments made by this Act to section 7 of the Federal Power Act). Notice of an election to negotiate or refusal must be filed with the Commission within the 45-day period.*

*(e) NEGOTIATIONS.—If an election to negotiate is made pursuant to subsections (c) and (d) for any project, the existing licensee and the competing applicant shall commence negotiations for each of the following:*

*(1) Compensation to be provided by the existing licensee for the reasonable costs incurred by the competing applicant which are related to pursuing—*

*(A) the application in the applicable relicensing proceeding, including the costs of preparing, filing, and maintaining such application for the period ending December 31, 1985, and*

*(B) the litigation in the courts involving the application of section 7 of the Federal Power Act to the applicable relicensing proceeding.*

*(2) Compensation in an additional sum (which may be in money or electric power or both) representing a reasonable percentage of the net investment of the existing licensee in the project, as of October 22, 1985 (as determined by the Commission, prior to the initiation of such negotiations, in accordance with section 14(a) of the Federal Power Act). In making the determination of net investment, the Commission shall utilize all relevant records and data (which the existing licensee shall provide to the Commission) applicable to the project for the term of the existing license through October 22, 1985.*

*The parties to the negotiations shall establish the method, period, and manner of providing all such compensation.*

*(f) COMMISSION ORDER.—If an election is made and accepted but negotiations under subsection (e) are not commenced by the parties within the time established by the Commission (or, if appropriate, in the judgment of the Commission, one 45-day extension thereof) or if a mutually satisfactory compensation arrangement that is consistent with the provisions of the Federal Power Act has not been executed within such time, the Commission, after notice and opportunity for a hearing, shall issue an order establishing compensation in accordance with paragraphs (1) and (2) of subsection (e). In determining the amount of compensation, the Commission may accept any stipulations agreed to by the parties as a result of the negotiations. The Commission shall also take into consideration all of the following:*

*(1) The quality of the relicensing proposals of the existing licensee and the competing applicant.*

*(2) The net benefits to both parties and their customers of obtaining the new license.*

*(3) The extent to which the applications filed by both parties were actively pursued (subject the effect thereon of any action by the Commission or the applicable litigation) and filed with the Commission in good faith.*

*(4) The extent of reliance by the competing applicant on the provisions of the Federal Power Act in effect prior to enactment of this Act and the detrimental impact of such reliance on the operations and on the service area of the applicant.*

*(g) COMPENSATION.—The order of the Commission under this section shall establish the method, period, and manner of providing compensation under subsection (f), and such other reasonable terms and conditions concerning such compensation, consistent with the Federal Power Act, as the Commission deems appropriate. Any payment over a period of time shall include interest compounded at a rate based upon outstanding obligations of the United States of comparable maturity. The payment period shall not exceed one-third of the new license term for the project. The order shall state the basis for the Commission's determination. The provisions of section 313 of the Federal Power Act shall apply to such order and determinations. The order (or any agreement reached by the parties by negotiation) shall be a condition of any annual license or new license (depending when the order is issued or agreement reached) issued to the existing licensee for this project. Nothing in this section shall be construed to affect the treatment, by a State regulatory authority for ratemaking purposes, of any compensation paid under this section.*

*(h) COMMISSION PROCEEDINGS.—Upon mutual request of the parties to any negotiation under this section, the Commission may defer any determination of net investment for the applicable project until whenever it is required to issue an order under this section for such project. No new license shall be issued under the Federal Power Act for the projects referenced in this section until there is full compliance, to the extent applicable, with this section. The Commission shall ensure that negotiations and any determinations and orders required by this section shall be conducted, made, and issued expeditiously and shall ensure that the parties do not delay.*

*SEC. 11. CHARGES FOR USE OF DAMS AND STRUCTURES.*

*Section 10(e) of the Federal Power Act is amended as follows:*

*(1) Insert "(1)" after "(e)".*

*(2) Add the following at the end thereof:*

*"(2) In the case of licenses involving the use of Government dams or other structures owned by the United States, the charges fixed (or readjusted) by the Commission under paragraph (1) for the use of such dams or structures shall not exceed 1 mill per kilowatt-hour for the first 40 gigawatt-hours of energy a project produces, 1½ mills per kilowatt-hour for over 40 up to and including 80 gigawatt-hours, and 2 mills per kilowatt-hour for any energy the project produces over 80 gigawatt-hours. Except as provided in subsection (f), such charge shall be the only charge assessed by any agency of the United States for the use of such dams or structures.*

*"(3) The provisions of paragraph (2) shall apply with respect to—*

*"(A) all licenses issued after the date of the enactment of this paragraph; and*

*"(B) all licenses issued before such date which—*

*"(i) did not fix a specific charge for the use of the Government dam or structure involved; and*

*"(ii) did not specify that no charge would be fixed for the use of such dam or structure.*

*"(4) Every 5 years, the Commission shall review the appropriateness of the annual charge limitations provided for in this subsection and report to Congress concerning its recommendations thereon.".*

*SEC. 12. MERWIN PROJECT GRANDFATHER.*

*The amendments made by this Act, except for the amendments made by sections 5 and 6(f), shall not apply to the Federal Energy Regulatory Commission proceeding involving FERC Project Number 935 (FERC Project Number 2791), relating to the Merwin Dam in Washington State.*

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of this important legislation, which makes urgently needed reforms in the procedures used by the Federal Energy Regulatory Commission to relicense hydroelectric facilities. The bill before the House today is a consensus bill, unanimously supported by members of the Energy and Commerce Committee. Months of effort went into developing this bill and I would like to thank my colleagues, the gentleman from Michigan and the chairman of the Energy and Commerce Committee [Mr. DINGELL], the ranking minority member of my subcommittee, the gentleman from California [Mr. MOORHEAD], the gentleman from Alabama [Mr. SHELBY], the gentleman from Washington State [Mr. SWIFT], the gentleman from Oregon [Mr. WYDEN], the gentleman from Texas [Mr. HALL], the gentleman from Utah [Mr. NIELSON] and the gentlemen from California [Mr. MILLER, Mr. MATSUI, and Mr. DANNEMEYER], for their hard work and cooperative spirit. Their efforts have resulted in the carefully balanced compromise we bring before you today.

This consensus legislation embodies three key principles: Protection of the ratepayer; concern for the environment; and equity between investor-owned and public utilities. Hydroelectric power is of enormous importance to consumers. With zero fuel charges and minimal operating cost, hyropower is our lowest cost source of power and helps to keep down consumer rates. The bill we bring before the House today maximizes the benefit this resource provides to consumers by establishing a fair competitive process that will encourage the optimal development of hydropower consistent with our environmental and energy values.

The legislative debate over this issue was initiated by my colleague from Alabama [Mr. SHELBY]. His bill, H.R. 44, sought to accomplish two basic policy objectives: First, to ensure that municipal preference did not apply in proceedings to issue a new license after an existing license expired; and, second, to increase the amount of compensation paid in the event a license is transferred. The bill before the House today accepts both of these changes.

The legislation eliminates the possibility that a preference for municipalities will apply in proceedings after the expiration of a license to determine a new licensee. At the same time, the preference for municipalities in original licensing is retained. The legislation does not address the applicability of preference in licensing proceedings involving an abandoned project. It does establish a competitive process that will permit municipalities, private utilities, and others to compete for a new license on a fair and equal footing. Competition will stimulate ideas for the best development and uses of these projects. Consequently, the public interest in these projects will be served.

The legislation also authorizes FERC, in the event a license is transferred, to award compensation to the existing licensee in an amount greater than what is required under current law. This greater amount, to be awarded at FERC's discretion, is intended to offset demonstrated economic harm to the customers of the existing licensee that could result fromt the loss of the low-cost hydroelectric resource. FERC is required to implement this provision in each case in a manner that is consistent with the overall competitive thrust of the bill.

Municipal preference and compensation, however, are only two of the important issues addressed by this bill. Other crucial provisions are included to harmonize the Federal Power Act with the energy needs and the environmental values which have evolved over the past 66 years.

The most important of these reforms requires FERC to provide equitable treatment with the developmental purposes of the act to various nonpower amenities, including the protection, mitigation of damage to, and enhancement of fish and wildlife, the preservation of recreational opportunities, and the purpose of energy conservation. This language requires FERC, on a case-by-case basis, to evaluate all of the aspects of a proposed project, giving serious consideration to power and nonpower values.

The legislation limits FERC's ability to reject the advice of the expert Federal and State agencies concerning fish and wildlife. Hydropower has had severe impacts on fish runs and habitat across this Nation. FERC has not adequately addressed this issue, particularly because of its historic bias in favor of power development. By correcting this bias, and limiting the unfettered exercise of discretion by FERC, hydro development and operation can become consistent with our environmental values.

The bill addresses other important concerns. It assures that a new licensee will be able to get needed coordination services, including transmission services, in the event a license is transferred. The bill also establishes a fair and voluntary process for resolution of nine of the pending cases involving challenges filed by municipalities. The 10th case, the Merwin case, is specifically exempted from the major provisions of the bill owing to the advanced procedural posture of the case.

Unfortunately, the legislation has rekindled the emotional battles between public and private power. This bill does not represent a choice between the two. We considered and rejected an explicit preference for private power, for existing licensees, or for public power. We created a truly competitive process in which the applicants will compete on their merits. We expect FERC to implement this bill in such a manner. All of those involved in developing this bill share the view that it is unrelated to and does not serve in any way as a precedent regarding other preferences, such as the Federal power marketing preferences.

The bill is fair and in the public interest. I urge my colleagues to support this needed legislation.

□ 1225

Again in this opening statement I would like to make particular reference to the work of the ranking minority member, Mr. CARLOS MOORHEAD from the State of California. We have tried to work on this issue on a nonideological basis to come to a commonsense, pragmatic compromise piece of legislation that I think has the broad-based support of all those who have been involved in it.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge all of my colleagues to support H.R. 44, the Electric Consumer Protection Act. My constituents in California and consumers nationwide have waited for this legislation for over 2 years. I want to thank all of the Members who have involved themselves in this legislation for their spirit and cooperation. The chairman of the full committee, Mr. DINGELL of Michigan, the chairman of our subcommittee, Mr. ED MARKEY of Massachusetts, Congressman NIELSON of Utah, Congressman SWIFT from Washington, the gentleman from California, Mr. DANNEMEYER, the gentleman from Ohio, Mr. OXLEY, the gentleman from California, Mr. MATSUI, the gentleman from Alabama, Mr. SHELBY, who introduced the legislation, and the gentleman from Texas, Mr. RALPH M. HALL. Without their help, this bill may not have been able to move forward today.

Mr. Speaker, over a year ago, I was pleased to join with my friend and colleague, the gentleman from Alabama, Mr. RICHARD SHELBY, as a cosponsor of the Electric Consumers Protection Act. Over the last year, H.R. 44 has attracted over 180 cosponsors. The reasons are clear. It corrects two simple wrongs in the relicensing of existing hydroelectric projects.

First, we wanted to eliminate any claim that an applicant should be extended a preference in relicensing proceedings based solely on the applicant's Government status. The public is your and my constituents, Mr. Speaker, regardless of what utility happens to serve them. My own con-

stituents are served by both privately and publicly owned utilities. But nothing I have learned over the last 2 years has convinced me that these projects should change hands to serve another segment of the public simply because those people happen to be served by utilities that are Government owned.

Second, we wanted to ensure that if a hydroelectric project is taken away, the consumers it served should be justly compensated.

The legislation before us today is very different from H.R. 44 as originally introduced. Several concerns about H.R. 44 were raised before the Energy and Commerce Committee. To resolve these concerns, the Subcommittee on Energy Conservation and Power developed a consensus compromise. It was this consensus package that was unanimously approved by the Energy and Commerce Committee for consideration today by the House.

The package before us eliminates all possibility of preference in relicensing proceedings. We took this action because it is inconceivable that there can be a tie between applicants for the same hydroelectric project. Instead, licenses will be issued to applicants whose plans are best adapted to serve the public interest taking into account several factors. In this regard, the physical and financial needs of each applicant's customers and consumers will be examined. This legislation recognizes utilities' mandatory duty to serve their customers at the lowest possible cost. For nonutility applicants, the needs of their business, the needs of the communities where they are located, and the needs of the customers who ultimately pay for their products are all taken into account. The right of last amendment was eliminated to ensure that each applicant will have the opportunity to prove its superiority without prejudice or favor.

The Federal Energy Regulatory Commission will be expected to evaluate each applicant's capability to satisfy license conditions. Of course, the existing licensee's operating record will also be taken into account. Each applicant's personnel, facilities, accomplishments, capabilities, and actual experience will be examined. This should guarantee that the applicant's real ability to do the best job will be an important part of the basis for awarding a license.

The package also ensures that consumers served by a hydroelectric project are fairly compensated in the event that the right to operate that project is transferred. In the event a license is transferred, FERC must order payment of at least net investment, and may order payment of additional compensation to mitigate demonstrated economic loss to the former licensee's ratepayers.

We have also included in the consensus package a provision on coordination services. This provision is designed to enable new licensees to benefit from dams they have taken away from prior licensees. We spent a great deal of time on this provision when we developed this legislation. We recognized the controversial nature of transmission access. I am now confident that this provision is narrow enough to prevent a practice that has become known as cherry picking. Under section 4(d)(2), new licensees will not be able to use the prior licensees' transmission systems to deliver power to prior licensees' customers. Further, this provision does not assume that transmission is always technically feasible. In cases where transmission is not technically feasible, FERC would have the authority to order such reasonable coordination services as are necessary to effectuate the license transfer. This of course would have to be determined on a case-by-case basis.

Also section 4(d)(2) ensures prior licensees will be able to recover costs demonstrated by the prior licensees as being related to the provision of project specific coordination services, including transmission services. It is intended that prior and new licensees will negotiate the appropriate compensation. In the event the parties are unable to reach an agreement, however, FERC will set the rate of compensation. Of course, should FERC have to set the rate of compensation, the new licensee will have the opportunity at FERC to challenge any such costs.

Importantly, this bill will cover the 10 contested relicensing cases pending before FERC. Some suggested that these cases by excluded. I could not agree. It made no sense to exclude these cases, since it was the threat to consumers in these cases that gave rise to this legislation. The Energy and Commerce Committee agreed with this and this package will put into a place a process that will essentially force the parties in these cases to enter into settlement negotiations.

Finally, this bill includes provisions that, while not directly related to relicensing, address our Nation's need to efficiently utilize hydroelectric resources. I am particularly pleased with one of these provisions—section 6(b). This provision will enable State and local governments to avoid FERC redtape whenever they install turbines of 40 megawatts capacity or less on conduits that are used solely for municipal water supply purposes. In the region of the country which I represent, section 6(b) will allow power to be generated on conduits whose power potential has been wasted for years.

Mr. Speaker, the legislation before us today represents a lot of hard work by a number of colleagues on both sides of the aisle who represent very diverse interests. The need for the legislation is clear. The legislation in fair. It represents sound policy. And, most importantly, it will protect the millions of consumers who currently benefit from cheap hydroelectric power. I urge my colleagues to support this legislation, and vote "aye" on H.R. 44.

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I must first commend my distinguished colleague, Mr. MARKEY, and the esteemed chairman of the Energy and Commerce Committee, Mr. DINGELL, for their efforts to reach a fair compromise concerning the pending relicensing proceedings. I would like to thank these gentlemen for allowing me to actively participate in drafting the compromise provision for handling these cases, section 10.

Since time is limited, I would like to highlight one area of the bill which is of particular interest to me and to my constituents. Section 10(e)(2) specifies that the compensation shall include "a reasonable percentage of the net investment of the existing licensee in the project."

As an active participant in the negotiations concerning this provision, I would like to stress that this term does not impose a cap of 100 percent on the percentage of net investment that can be negotiated by the parties or awarded by FERC. Rather, the provision would allow compensation well in excess of the net investment of the project in appropriate circumstances.

Where a competing applicant has submitted a proposal of quality, pursued it actively, and will lose significant benefits by withdrawing its application, FERC should award substantial compensation. In such circumstances, FERC would be fully justified in ordering compensation in excess of the net investment value of the project.

Mr. Speaker, I would like to express my gratitude to my esteemed colleagues Mr. DINGELL and Mr. MARKEY for their great efforts to resolve the difficult and complicated issues encompassed by this legislation. I am particularly grateful for the time and energy they have expended in crafting a compromise provision for handling the relicensing applications currently pending at the Federal Energy Regulatory Commission.

Having said this, I still find much to criticize in this bill. Since the House began examining this issue in 1984, I have firmly believed that it should focus on maintaining competition in the electric utility industry. The strength of our utility industry today is its diversity. This mix of systems allows a measure of competition in an otherwise monopoly industry. In my view, Congress' goal in reexamining

the relicensing of hydroelectric facilities and in examining other aspects of the utility industry should be to foster this competition which brings real benefits to consumers. Indeed, I introduced an alternative to H.R. 44 which was intended to reform the licensing process while preserving its beneficial aspects.

Unfortunately, H.R. 44 takes a different approach. It strikes a blow at competiton by removing the public preference in relicensing of hydroelectric facilities. Under current law, if both a municipal and a private company's application are equally well adapted to the public interest, the municipal will receive the license. This preference promotes competition in an increasingly concentrated industry by helping small systems compete against their much larger investor-owned rivals.

As the GAO has documented, competition between public and private utilities over existing hydroprojects has resulted in significant improvements in the use of the resources. For example, competing applicants have proposed improvements in power production potential at existing projects, new fish and wildlife mitigation measures and new or improved recreational facilities.

The proponents of this legislation contend that it is needed to clarify uncertainty concerning the extent of the preference. Any doubt about the existence of a public preference in relicensing proceedings is due to FERC's unlawful "flip-flop" on the preference issue, and not to uncertainty in the existing preference provision. FERC found in its 1980 Bountiful decision that the Federal Power Act provides a clear preference for public applicants in hydrorelicensing. That decision was unanimously affirmed by a panel for the 11th circuit and the Supreme Court denied certiorari. Last year, a unanimous panel of the District of Columbia circuit found FERC's 1983 flip-flop in the Merwin case to be a "determined, covert, and almost deceitful" attack on the public preference. In sum, every court which has considered the issue has found a public preference in hydrorelicensing.

The reasons for the preference have been found valid and persuasive by the Congress on more than 30 occasions over the past 75 years. They are still valid today. In my bill, H.R. 1815, I suggested an approach which I thought would preserve the concept of the preference while still addressing the concerns expressed by the private utilities. However, H.R. 44 would remove the preference in relicensing.

Although I am disappointed that H.R. 44 eliminates the public preference in relicensing, I am pleased that a compromise was reached to provide adequate compensation to those few utilities whose license applications are pending at FERC and who have relied in good faith on current law.

Nine public utilities have filed competing applications for existing hydro projects. These applications have been pending at FERC for as long as 12 years. The public applicants have expended substantial public moneys for the engineering fees, environmental studies and legal fees required to file and process a relicensing application. They invested these funds in good faith reliance on a law that has existed for more than 65 years.

I was a principal author of a compromise provision, section 10 of H.R. 44, which acknowledges the basic unfairness that would result from applying changes in the law retroactively without compensating the competing applicants who relied in good faith on existing law. The provision establishes a procedure whereby existing licensees will retain their licenses in return for compensating the competing applicants for their out-of-pocket costs incurred in pursuing the license applications and for the valuable opportunity that would be taken away by this legislation.

To compensate for the valuable lost opportunity, the provision specifies that the compensation shall include payment of "a reasonable percentage of the net investment of the existing licensee in the project. The authors discussed at great length whether to place a floor and a ceiling on the percentage of net investment which could be awarded. We concluded that no limits should be specified so that FERC could award payment of a very small percentage of net investment or payment of a percentage greater than 100 percent.

For example, in determining the appropriate amount of compensation, we instructed FERC to consider the quality of the applications. In two of the cases pending in California, the Rock Creek-Cresta and Haas-Kings River projects, the municipal applicants have developed and proposed methods to substantially improve the power capabilities and environmental and recreational facilities of the projects. These applications are an excellent example of cases in which FERC would be justified in awarding greater than 100 percent of net investment.

Under section 10 of H.R. 44, the existing licensee would keep the license and the tremendous economic benefits associated with this highly valuable public resource. The compensation to be paid by the existing licensee would be modest in comparison; it is the very least to which the competing public applicants are entitled.

I would also like to commend the committee for the excellent provisions concerning fish and wildlife. H.R. 44 strengthens and increases fish and wildlife protection and enhancement under the Federal Power Act. I am also pleased that the committee, in its report on H.R. 44, has stressed that elimination of the public preference in relicensing is not in any way a precedent for tampering with other preferences in the Federal Power Act. These provisions, including the Federal power marketing preference, are critical elements of the act and should be carefully preserved.

I am disappointed, however, that H.R. 44 does not address the anticompetitive activities which plague the electric utility industry and threaten the viability of smaller public power systems. In particular, smaller public utilities face tremendous problems today in obtaining access to transmission lines controlled by privately owned utilities. With the passage of H.R. 44, it becomes even more critical that we address such problems since the bill makes it less likely that public utilities will obtain additional access to hydropower through licenses.

Competition in the electric utility industry is of critical importance to American consumers. It encourages technological advancement and provides an important check on the ever-increasing rates of private monopoly utilities. To protect a balance in the industry, it is essential to preserve and enhance the viability of smaller utilities which will provide the much needed diversity in this monopoly industry.

Mr. MOORHEAD. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in support of H.R. 44, the Electric Consumers Protection Act, and urge my colleagues also to support this important legislation.

Mr. Speaker, I, too, want to congratulate the chairman of the subcommittee, Mr. MARKEY, as well as the ranking Republican, Mr. MOORHEAD, for the work that they have done in this very complicated and difficult issue.

Mr. Speaker, the Electric Consumers Protection Act is the product of months of intense negotiations to develop a consensus bill to address the concerns of electric consumers nationwide, the environmental community, and especially both public and private power alike regarding the hydroelectric relicensing process. Mr. Speaker, as a member of the subcommittee and a cosponsor of H.R. 44, I believe we have succeeded in reaching that goal.

As I have stated on several occasions throughout the consideration of H.R. 44, there are some people in the public power field who feel that the bill is the first wave of an outright assault on the power marketing preference. Again, I do not believe that this was anyone's intent, and indeed the bill in no way alters the power marketing preference that grants municipal utilities advantages in purchasing low-cost hydroelectric power for their customers. A number of communities in my district currently enjoy this low-cost power, and I intend to see that they continue to do so. I believe that language in the committee report clarifies this matter.

Mr. Speaker, the complex and controversial nature of the hydroelectric relicensing process in general and H.R. 44 in specific obviously reflects the value of these power resources. It also seems to me, however, that this complex and controversial nature reflects to financial risks of utilities building new capacity to meet future demands.

It's the old story that if the pie stops growing, everyone will start fighting over the size of his or her piece. Since utilities are unwilling to build new capacity in light of financial and regulatory hurdles, they will struggle over control of existing capacity.

I would hope that the spirit of compromise that enabled H.R. 44 to be

unanimously reported from the Energy and Commerce Committee will also be applied to the problems that have resulted in the excessive lead times and expense of building new generating capacity and transmission facilities. For example, we have several legislative proposals for nuclear regulatory and licensing reform before our committee. This is just one of a number of electricity issues that the committee will discuss during the remainder of this session and in future sessions. It is my hope that we will be able to develop consensus legislation on these issues as well.

Mr. Speaker, H.R. creates sound public policy for hydroelectric relicensing. However, any effort to link this legislation with the many other electricity issues would be inconsistent with both the purpose and intent of this legislation. I urge my colleagues to support H.R. 44.

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. I thank the subcommittee chairman.

Mr. Speaker, in particular I want to commend the gentleman, the chairman of our subcommittee, who has just poured the hours and effort into putting together an excellent bill. I think he has done a tremendous job, and I want him to know, on an issue that is of such great importance to the people in the Northwest, how much I appreciate it. I also want to commend the gentleman from California [Mr. MOORHEAD] for his work. He has worked very, very hard at trying to steer this bill to passage. I would like to compliment my other colleagues as well.

Mr. Speaker, I am happy to rise today to speak in favor of H.R. 44.

The potential hydropower surging through our Nation's rivers is one of our most valuable resources, and this bill will help ensure that that potential is developed wisely and fairly.

Ambiguities in the present authority of the Federal Energy Regulatory Commission have led to lawsuits and uncertainty in energy planning. A case in point concerns the Merwin Dam in the Northwest, where uncertainties about the role of public preference in relicensing have mired the proceeding in the courts. The controversy has placed a cloud over the ability of the present dam operator to hold the line on rate increases for its consumers. Although this bill is not intended to affect the outcome of the Merwin dispute it will establish clear policies on relicensing that will avoid such disputes in the future.

Also, this bill goes a long way toward ensuring that hydropower development will be in harmony with the environment. It makes preservation of environmental quality a consideration coequal with energy development in licensing, and it requires FERC to include provisions in licenses to protect, mitigate, and enhance fish and wildlife resources.

In so doing, this bill will eliminate artificial incentives for dam building that have caused particular concern in the Pacific Northwest. Under section 210 of the Public Utility Regulatory Policies Act of 1978, or PURPA, small generators of electricity were guaranteed buyers for their power, regardless of whether their generating project was in the public interest. Congress expected the section to promote installation of generating facilities at existing dams and other potential power sources. However, the section, as interpreted by FERC, has triggered what many Oregonians consider a hydrogold rush—a wave of proposals to build new dams.

In many cases in the Northwest, these dams would have serious impacts on fish and wildlife, recreation, or water quality, while the benefits they would produce would be small. Because of the region's rate structure, new projects could actually drive up the cost of electricity to the consumer. In fact, in light of the present electrical power surplus in the region, many of these proposals are counterproductive, and would never get off the drawing board without an artificial, Government-ordered, guaranteed market.

H.R. 44 goes a long way toward fixing this undesirable side effect of PURPA.

First, as I've already noted, the bill establishes environmental requirements for projects hoping to take advantage of PURPA. By making developers responsible for environmental degradation their dams may cause, the bill will eliminate artificial incentives for dam building that exist under the present scheme.

Second, the bill establishes a moratorium on the licensing of new projects while FERC prepares a study on their overall environmental effects.

And third, although the bill does not expressly deny PURPA benefits to developers that fail to prove a need for their power, it does make energy conservation a coequal consideration with energy development in FERC licensing proceedings. The bill gives FERC the authority and, in fact, the mandate to deny licenses to projects that would aggravate the regional power surplus, raise consumer rates by generating unneeded power, or degrade the environment.

□ 1240

Mr. MOORHEAD. Mr. Speaker, I yield 5 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I represent a district in the State of Utah that places me in a very difficult position with regards to issues that affect both public and private utilities. My district is split fairly evenly between the two, and one of the pending cases for relicensing involves my major city. However, in this particular piece of legislation I feel that the Energy and Commerce Committee has done an excellent job in structuring this legislation in a manner that is fair and equitable to both sides. I am sure that those who have spoken before me and those that will speak after me will talk in further detail so I will take just a moment to cover three items of particular concern to me. First, the access provision: There is a provision in this legislation that requires a private utility, if they should lose in the relicensing process a hydroelectric facility, to provide the new licensee with access to the hydroelectric facility in question, thus allowing the new licensee the opportunity to use that power generated by the hydroelectric facility. I feel this provision is critical to the legislation. Without this provision we severely handicap the ability of the new licensee to ever realize any benefit from that facility. This, however, does not imply that so-called long wheeling is contemplated by the legislation.

Second, preference in relicensing: It is my opinion that neither the public or the private utilities need a preference in the relicensing process. Both should present the best possible case before the Federal Energy Regulatory Commission. They should rely on the completeness and merits of their application and not some provision in public law or regulation that allows either an unfair advantage to either have the last right of submittal or to be granted the license in case of a tie.

Third, as in the case of the access provision nothing in this legislation in any way affects or alters the preference that public utilities, municipalities, and cooperatives have in regards to the initial preference of hydroelectric facilities and preference for Federal marketed power. These two issues stand on their own merits.

In conclusion, I want to say that I fully support this legislation and I would like to commend Mr. SHELBY, Mr. DINGELL, Mr. MARKEY, Mr. MOORHEAD, Mr. SWIFT, Mr. WYDEN, Mr. DANNEMEYER, Mr. MILLER, and Mr. MATSUI for their efforts. I think this is a good bill and I would encourage Members to support it.

Mr. MARKEY. Mr. Speaker, I yield 4 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding me this time, and I join my colleagues in commending the gentleman and the ranking minority member of the subcommittee for helping us work through what otherwise could have been an ex-

traordinarily controversial piece of legislation.

Mr. Speaker, the Committee on Energy and Commerce worked on this legislation for nearly 3 years, and we have developed a compromise bill that was able to pass the committee by a unanimous voice vote.

I would like to bring to my colleagues' attention two features of this bill that distinguish it from the Senate bill which the Senate adopted last week. There are many important differences between the two bills, but I believe these two are of particular significance.

First, the House bill establishes that neither side shall have a preference at the time a dam is relicensed. This legislation owes its existence to the fact that a majority of Members of Congress do not believe that municipalities should have a tie-breaking preference in the relicensing of hydroelectric dams; there is a concern that that may create an unfair advantage for one side that is unrelated to the public interest. So when the committee developed its bill, we made sure that neither side would have a preference at relicensing. The bill would require FERC to determine which applicant would best serve the public interest, and award the license to that applicant.

On the other hand, the Senate bill expressly provides a preference to the existing licensee. Since almost all existing licensees are investor-owned utilities, that is virtually tantamount to a preference for investor-owned utilities. I would point out to my colleagues that the Committee on Energy and Commerce intentionally did not take the approach of the Senate bill. We did not believe that Congress should respond to a perceived inequity on one side by creating a new inequity on the other side.

Significantly, the chairman of PG&E, Mr. Frederick Mielke, who is also the chairman of Edison Electric Institute's hydro relicensing committee, testified in favor of this position in a hearing before the Energy Conservation and Power Subcommittee 2 years ago. Mr. Mielke testified: "You will never have a tie without a preference. There should be no tiebreaker. You must force on the FERC, one way or another."

The second issue that I would like to direct the House's attention to is somewhat more subtle. The investor-owned utilities very much wanted to have included in this legislation an "economic impact test" required as part of FERC's determination of which applicant would best serve the public interest.

The committee labored for months in an effort to arrive at an economic impact test that would not, in essence, merely create a preference for large, investor-owned utilities. In other words, we were concerned that we not produce a bill which would purport to say that neither side has a preference in hydro relicensing cases, and then turn around and create a de facto preference for investor-owned utilities through a so-called economic impact test. We were unable, however, to develop an economic impact test that would not end up favoring one side or the other—and given the thrust of this legislation, that side would have been the investor-owned utilities.

The Senate bill, on the other hand, does include an economic impact test. This is a critical issue, Mr. Speaker. The absence of an economic impact test in the House bill is, I believe, a key reason why we are on the Suspension Calendar today, instead of engaging in 4 days of debate as occurred in the Senate. The balance achieved in the House bill would be the standard by which the two bills are resolved. There can be no justification for slanting this legislation even further in the direction of the investor-owned utilities.

While I cannot claim that the Edison Electric Institute agrees with my specific views on the merits of an economic impact test, with regard to the balance established by the House bill, I would like to note in this regard their statement in an April 18, 1986, letter to Members of Congress. EEI says: "The Energy and Commerce Committee has fashioned a fair approach to the relicensing of these valuable projects under which all applicants * * * can compete on an equal basis."

Finally, Mr. Speaker, this legislation includes a grandfather clause to protect the applicants competing for the Merwin Dam in southwest Washington from the application of any of the requirements of this bill, except for the amendments made by sections 5 and 6(f). This grandfather clause was made at the specific request of both the Clark/Cowlitz Joint Operating Agency and the Pacific Power and Light Co., the two applicants in that proceeding. This grandfather was included because of the advanced state of the Merwin proceeding, and requires that all present and future proceedings related to this case should continue to be governed by the provisions of current law.

Mr. MOORHEAD. Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, may I inquire of the Chair how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] has 2½ minutes remaining and the gentleman from California [Mr. MOORHEAD] has 4 minutes remaining.

Mr. MARKEY. Mr. Speaker, I yield the balance of my time to the gentleman from Oregon [Mr. WEAVER].

□ 1250

Mr. WEAVER. Mr. Speaker, under section 14(a) of the Federal Power Act, the United States now has the right upon or after the expiration of any license to take over and thereafter to maintain and operate any hydroelectric project licensed by FERC, upon the condition that before taking possession it shall pay the net investment of the licensee in the project or projects taken, not to exceed the fair value of the property taken, plus such reasonable damages, if any, to property of the licensee * * * caused by the severance therefrom of property taken. Is it correct that H.R. 44 does not affect this authority of the United States to take over FERC-licensed hydroelectric projects?

Mr. MARKEY. Mr. Speaker, if the gentleman will yield, H.R. 44 does not change existing law concerning the authority of the United States under section 14(a).

Mr. WEAVER. Section 4(e) of the Federal Power Act authorizes the Secretary of the Interior to impose conditions upon the license for a hydroelectric or transmission facility located on an Indian reservation as he shall deem necessary for the adequate protection and utilitization of such reservation. Is it correct that H.R. 44 does not affect this authority of the Secretary of the Interior to impose license conditions on facilities located wholly or partially on Indian reservations?

Mr. MARKEY. Mr. Speaker, if the gentleman will yield, H.R. 44 does not change the existing authority of the Secretary under section 4.

Mr. WEAVER. Section 4(e) of the Federal Power Act also conditions the licensing of facilities located on Indian reservations upon a finding by FERC "that the license will not interfere with or be inconsistent with the purpose for which such reservation was created or acquired." Is it correct that, under H.R. 44, FERC would be required to make such a finding before issuing a new license for an existing facility or for a new facility located wholly or partially on an Indian reservation?

Mr. MARKEY. If the gentleman will yield, Mr. Speaker, H.R. 44 does not change existing law concerning FERC's obligation to make such a finding.

Mr. WEAVER. The U.S. Supreme Court has adopted a rule of construction with respect to rights of Indian tribes deriving from treaties or acts of Congress that such rights are not impaired or abrogated by subsequents acts of Congress unless such acts specifically and directly do so. Is it the gentleman's understanding that, unless some provision of H.R. 44 specifically and directly modifies Indian treaty or statutory rights, the bill is not intended to have that effect?

Mr. MARKEY. If the gentleman will yield, it is my understanding that H.R. 44 does not specifically and directly change such laws.

Mr. WEAVER. I thank the gentleman very much for his cooperation. I believe that his answers are very satifactory.

Mr. Speaker, section 4 of this bill authorizes FERC to require a "new licensee to provide reasonable compensation to the existing licensee in addition to the amount required to be paid pursuant to" existing law, which is essentially the existing licensee's "net investment" in the project plus severance damages. Section 4 states that this additional compensation is intended as "mitigation of any demonstrated economic loss to the customers of the existing licensee." In order to provide such mitigation for economic losses to utility customers, any compensation in excess of the existing licensee's net investment (capital expenditure minus depreciation) in the project should be credited to the utility's ratepayers. They will have already paid most if not all of the capital cost of the dam through depreciation payments during the initial 50-year license term. If the utility receives compensation in excess of its net investment in the project, the additional compensation should be credited to the utility's ratepayers, not to its stockholders.

Under typical accounting and ratemaking treatment, investor-owned utilities are allowed to collect annual revenue sufficient to earn an authorized rate of return on their ratebases plus cover depreciation on their capital investments, such as hydroelectric projects. Thus, if a project is amortized over 50 years, the ratepayers at the end of the 50-year period will have paid all of the original capital cost in the form of depreciation, plus paying a rate of return during the entire period. The project may still have a positive book value, however, if the utility has later invested additional sums in capital improvements to the facilities.

If an existing licensee is to receive compensation from a new licensee in excess of its net investment in the project (capital cost minus depreciation), that additional compensation should rightfully be credited to ratepayers, who have already paid all of the capital cost of the project except for the remaining net investment of the utility. This additional compensation should not be credited to stockholders, because they have already been compensated by the ratepayers for that portion of their investment.

In addition, neither existing law nor H.R. 44 forbids an investor-owned utility from selling a licensed project to another utility or other buyer. The selling utility might legitimately claim for its stockholders a portion of the sales proceeds equal to its remaining net investment in the project, but all additional proceeds should be credited to the utility's ratepayers, because the ratepayers have already absorbed the remaining cost of the project through depreciation payments.

This is an important issue. I note that the utilities in Oregon are now selling properties and claiming most or all of the proceeds for stockholders.

In order to achieve the H.R. 44's purpose of protecting the ratepayers of utilities with licensed hydroelectric projects, we must not allow rate regulators to circumvent the intent of the bill by allowing investor-owned utilities to sell licensed projects and pocket for stockholders the sale proceeds in excess of their net investment.

Mr. DINGELL. Mr. Speaker, I rise in strong support of H.R. 44 which amends the Federal Power Act to resolve a very thorny and contentious issue concerning the relicensing of hydroelectric power facilities. It is a fair bill. It is a reasonable bill. It is proconsumer. It is pro-environment. Just as important, it retains the expressed statutory preference for States and municipalities in original licensing, while making it inapplicable in proceedings following expiration of an existing license. I stress this, because I believe it is important for all to know that we have not undone the longstanding preference provisions of this law or those of other laws involving power marketing. We have set no precedents in this regard. Indeed, I could not support this bill if we did, as I believe such preference in these laws must be preserved. I would undoubtedly oppose future efforts to abandon or even erode such preference provisions.

I particularly want to stress the environmental features of the bill worked out cooperatively with all my colleagues on the committee, but particularly the bill's chief sponsor, Mr. SHELBY, the subcommittee chairman, Mr. MARKEY, and the ranking minority member, Mr. MOORHEAD. They are discussed in great detail in the March 25, 1986, committee report on the bill, particularly pages 30–32 and 39–41.

The fish and wildlife and related environmental provisions of this bill are long overdue. To me, they are the backbone of the bill. As the electric utility industry knows, they are one of the principal reasons for my supporting the bill with great enthusiasm.

For too many years, the Federal Energy Regulatory Commission and its predecessor, the Federal Power Commission, treated these important natural resources, including the pristine waterways to which they depend, with disdain and indifference. These resources have been relegated to a mere nuisance, rather than treated as a valuable and irreplaceable national treasure. Too often, while I chaired the Fisheries and Wildlife Subcommittee of the Merchant Marine and Fisheries Committee, the Federal Power Commission would devise, with apparent relish, schemes to circumvent or render ineffective the Fish and Wildlife Coordination Act.

Recently, under former Chairman O'Connor, FERC showed some indication that this attitude might be on the wane. But he is gone and now some of the new Commissioners seem ready to revert back to the "good old days." This must not happen. I believe that this bill, along with some vigilant oversight by the Energy and Commerce Committee's Subcommittee on Oversight and Investigations, which I chair, will help to assure that it does not.

The bill, which applies to original licensing and relicensing, provides an effective mechanism and procedure for the Federal and State fish and wildlife agencies to prepare and have adopted meaningful provisions not only to mitigate damage to fish and wildlife, but also to protect the resource from such damage and to enhance both fish and wildlife and their habitat and spawning areas. In doing this, these agencies are bound not only to look at the project in question but also to look at the cumulative imports the project may have in conjunction with other projects already on a waterway or planned. Most importantly, these agencies no longer must go "hat-in-hand" to FERC to try to gain small crumbs for this resource. They can, in fact, decide to recommend against a project and if FERC wants to reject that recommendation, FERC must fully justify that rejection and have it subject to judicial challenge. Indeed, the bill is intended to put fish and wildlife resources on a par with hydro development. It requires a greater public process in licensing of any kind, including enforcement of the act and conditions of any license, permit, and so forth. No longer can FERC and its staff operate in a closed-door fashion. Public scrutiny is to be a part of the processes of hydroelectric licensing and enforcement.

At this point, I insert in the CONGRESSIONAL RECORD communications I received in support of H.R. 44:

NATIONAL AUDUBON SOCIETY,
*Washington, DC, April 16, 1986.*

*Dear Representative:*

H.R. 44, the Electric Consumer Protection Act of 1985, is scheduled for House floor consideration next week. On behalf of the National Audubon Society and its half-million members nationwide, I am writing to urge your support for this legislation.

The main purpose of this legislation is to deal with the issue of preference for states and municipalities when hydropower projects are considered for licensing and relicensing by the Federal Energy Regulatory Commission (FERC). However, H.R. 44 contains very important provisions for ensuring that fish, wildlife, and environmental considerations become an integral part of the FERC hydropower licensing process.

As the federal agency responsible for licensing most non-federal hydropower projects, FERC exercises enormous control over the use of this country's water resources. By granting permission to build or operate a hydropower facility, FERC determines who may use a public resource—the nation's rivers and waterways—and in what manner. FERC's decisions have substantial impacts on fish, wildlife, recreation, and all of the other non-power-related uses of rivers and waterways.

FERC has made little substantive effort to determine the environmental impacts of its decisions or to balance the competing uses of a river in its decision-making processes. Rather, it has taken the attitude that the development of power is the most important use of any waterway; protection of

non-development values has been a secondary concern. As a result, major fisheries (particularly anadromous fish) have seriously declined, wildlife habitat and parklands have been degraded, recreational opportunities lost, and free flowing streams dammed and dewatered. FERC's compliance with the National Environmental Policy Act has been poor; federal and state natural resource agaencies have complained that too often, FERC has not adequately considered their advice and recommendations.

The National Audubon Society has been concerned that the problems with FERC could become even more acute absent a legislative remedy. The number of pending hydropower projects has rapidly escalated—from a dozen per year in the mid-1970's to over 6,000 between 1978 and 1984. In addition, a number of the nearly 900 presently licensed projects are coming up for relicensing. The present proliferation of projects is caused in part by the Public Utility Regulatory Policies Act (PURPA), which requires utilities—whether they need the power or not—to buy power from qualifying private hydropower facilities. As a result, private developers and speculators have staked claims on rivers and streams all over the country. This rush to claim hydro sites was exacerbated by FERC's interpretation of PURPA, extending its benefits to new dams as well as to power development at existing dams. This extension to new dams, in our opinion, goes beyond the congressional intent of PURPA.

The National Audubon Society recognizes hydropower as an important source of power, but the development of water projects must be controlled before the proliferation of dams chokes our rivers. Further development of hydropower must be balanced with the many other uses of the waterways. We have been troubled that FERC, without strong and explicit guidance from the Congress, would not be able to achieve these objectives.

H.R. 44 is a major step forward in redressing the present imbalance in the FERC hydropower program. Under this legislation, fish, wildlife, and other non-development amenities of a waterway will be given equitable treatment with power development. The natural resource agencies, which have the knowledge and expertise to advise FERC on the environmental impacts of hydropower projects, will play a larger role in the licensing decisions. And, while PURPA benefits to new dams will not be eliminated, some limitations will be placed on these financial incentives and a major review of the PURPA/hydropower issue will be undertaken.

We urge you to support H.R. 44. In our view, it will provide much needed protection to our rivers and streams.

Sincerely,

CHARLENE DOUGHERTY,
*Director of Legislation.*

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FRIENDS OF THE EARTH,
*Washington, DC, April 16, 1986.*

*Dear Representative:*

On Monday April 21st, the House of Representatives will take up floor consideration of H.R. 44, the "Electric Protection Act of 1985." The bill would amend the 1920 Federal Power Act with regard to several issues surrounding the licensing and "relicensing" of hydroelectric power facilities by the Federal Energy Regulatory Commission. We are writing in support of the bill's passage, in particular, because it will help improve FERC's handling of environmental matters with respect to hydroelectric dams.

This bill has gone through a number of key modifications since it first introduction. While H.R. 44 does not resolve all of the serious evironmental protection issues surrounding FERC's handling of hydro licensing, it does make important steps with regard to the protection of fish and wildlife and other environment amenities and it places certain needed limitations on speculative developments on virgin streams now being promoted by the Public Utility Regulatory Policies Act. In recent years, dozens of river basins in several regions, supporting some of the nation's most prized fisheries and other river values, have been overwhelmed with speculative small hydropower development proposals brought on by the PURPA. In some circumstances, the rash of proposals threatens major cumulative damage to streams. H.R. 44, as reported by the House Energy and Commerce Committee, attempts to provide a higher degree of assurance that such damage will not occur.

The bill establishes important new environmental "purposes" for FERC's hydrolicensing program and sets out procedures for negotiating disputes over licensing conditions between fish and wildlife agencies and developers. The bill also institutes improved FERC license enforcement procedures, restores conditioning authority to the National Marine Fisheries Service for exempted projects and makes energy efficiency a criteria for consideration in FERC license application reviews.

While H.R. 44 is a complicated bill which has been subject to considerable negotiation and compromise, we feel the special environmental improvements the bill includes for FERC's programs are of high importance at this time and strongly deserve the support of House members.

Thank you for considering our views.

Sincerely yours,

DAVID R. CONRAD,
*Washington Representative.*

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APRIL 18, 1986.

Hon. JOHN DINGELL,
*U.S. House of Representatives, Washington, DC.*

We, the undersigned, urge your support of the compromise bill, H.R. 44—the Electric Consumers Protection Act of 1985—this morning under suspension of the rules.

International Brotherhood of Electrical Workers; National Association of Regulatory Utility Commissioners; American Paper Institute; Edison Electric Institute; U.S. Chamber of Commerce; New England Council; National Conference of State Legislatures.

Before closing, I want to particularly commend the chief sponsor of this bill, my good friend Congressman SHELBY from Alabama. From the very beginning in the last Congress when he introduced an earlier version of the legislation we are considering here today, Mr. SHELBY and I talked about the need for improved fish and wildlife provisions in the Federal Power Act. He has worked diligently with Chairman MARKEY and myself to develop these provisions because he shares our concern for this valuable and irreplaceable resource. He, along with Congressman MILLER of California, has been the chief proponent of the PURPA provisions of this bill. Indeed, both gentlemen wanted to go even further toward eliminating PURPA benefits for new dams and diversions—a view I believe is shared by our distinguished friend from Oregon, Congressman WYDEN. I feel certain that they will not look with kindness at the "PURPA" provisions of S. 426, as passed by the other body last week. I fear that those provisions, particularly a "PURPA grandfather clause" in that bill that could exempt hundreds of projects, may delay our resolution of this issue in any future conference.

I also want to commend Chairman MARKEY in working many long days and hours to resolve this difficult bill. It is a tribute to his leadership that this bill is now so free of controversy that it could be considered on the Suspension Calendar.

Mr. MARKEY was particularly supported in this effort by the ranking minority member, Mr. MOORHEAD, who also worked diligently to fashion a fair and reasonable compromise. I am particularly thankful for his generous support for the fish and wildlife provisions.

The others who were instrumental in developing this version of this bill were the able Congressman HALL of Texas, the patient and thoughtful gentleman from Washington, Congressman SWIFT, the distinguished Congressman from Utah, Mr. NIELSON, my tireless and able colleague from Oregon, Mr. WYDEN, and the distinguished Congressman from California, Mr. DANNEMEYER. Also to be commended is the able ranking minority member of the full committee, Mr. BROYHILL.

Mr. Speaker, the Shelby bill is, as I have already said, a fair bill, a consumer bill, a timely bill, an environmental bill, and one that deserves broad support today. I urge my colleagues to vote for the Shelby bill, H.R. 44.

Mr. Speaker, I also insert at this point communications with the chairman of the House Committee on Merchant Marine and Fisheries and myself concerning this bill. The letters follow:

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
*Washington, DC, March 24, 1986.*

Hon. JOHN D. DINGELL,
*Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC*

DEAR JOHN: As you know, the staff of this Committee has been working with the staff of the Committee on Energy and Commerce concerning those provisions of H.R. 44, the Electric Consumers Protection Act of 1985, which pertain to the conservation responsibilities of the United States Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), two agencies under the jurisdiction of this Committee. In particular, our staff has been interested in Sections 3(c) and 6(a) of H.R. 44 which involve FWS and NMFS responsibilities under the Fish and Wildlife Coordination Act (FWCA) for the protection, mitigation, and enhancement of fish and wildlife. House Rule X(1)(n)(4) states that this Committee has jurisdiction over "Fisheries and wildlife, including research, restoration, refuges, and conservation." Given your many years of service with this Committee, we certainly need not spend any time making the case that an alteration or clarification of the responsibilities of FWS and NMFS under the FWCA would be under the jurisdiction of this Committee.

It is our understanding that your staff was most cooperative and helpful during these discussions and that negotiations have resulted in a product acceptable to both Committees. Given your Committee's recog-

nition of our jurisdiction over issues arising under the FWCA, the satisfactory outcome of the staff discussions, and the need for speedy consideration of this important legislation, the Committee on Merchant Marine and Fisheries will not seek sequential referral of that part of H.R. 44 which we believe could affect the FWCA. We would take this course of action with the understanding that it would be nonprejudicial to this Committee's jurisdiction as set forth in Rule X(1)(n) of the Rules of the House of Representatives. We understand that you agree that sections 3(c) and 6(a) of H.R. 44 relate to the fish and wildlife subject matter within our Committee's jurisdiction and will so indicate in a letter which could be made a part of the record during consideration of the measure in the House.

Once again, it has been a pleasure to work with you and your staff to assure that proper consideration is given to the conservation of our nation's fisheries and wildlife.

With best regards, I am,

Sincerely,

WALTER B. JONES,
*Chairman.*

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COMMITTEE ON ENERGY AND COMMERCE,
*Washington, DC, March 25, 1986.*

Hon. WALTER B. JONES,
*Chairman, Committee on Merchant Marine and Fisheries, Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your Committee's letter concerning H.R. 44. As you observe, our staff and yours have been working together, cooperatively, concerning matters of mutal interest.

H.R. 44, as reported by this Committee, amends the Federal Power Act. The primary purpose of the bill is to provide a fair, reasonable, and competitive procedure, with adequate standards and safeguards, for the relicensing of hydro power projects. The bill does not amend the Fish and Wildlife Coordination Act, which is within the jurisdiction of your Committee. Further, it does not limit or expand the authorities or duties of the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), which are within the jurisdiction of your Committee.

I am aware that your Committee has particular interest in sections 3(c) and 6(a) of the bill. These provisions address only how FERC will act upon recommendations made by the Federal and State fish and wildlife agencies under the Coordination Act. Section 3(c) amends the Federal Power Act to place substantive and procedural restrictions on FERC's ability to reject or modify recommendations made by the FWS or NMFS to FERC concerning fish and wildlife matters under the Coordination Act. Section 6(a) requires FERC to extend to NMFS the same authority as is currently provided to FWS with respect to establishing terms and conditions for certain conduit hydroelectric projects exempted from the licensing requirements of the Federal Power Act. As you know, this provision is the same as H.R. 2605, which wa referred exclusively to the Energy and Commerce Committee, and which was reported by this Committee in the 98th Congress as part of S. 1132 (H.Rept. 98-1052).

Your Committee has jurisdiction, under the House Rules, over "Fisheries and wildlife, including research, restoration, refuges, and conservation" and this Committee has jurisdiction over "all functions" of FERC, including hydropower relicensing. I am aware that sections 3(c) and 6(a) of H.R. 44 relate to the fish and wildlife subject matter within you Committee's jurisdiction. As you know, hydro projects affect such resources, as well as water quality, recreation, safety and other such non-power values. Although these sections relate solely to FERC's licensing functions and are not intended to change or affect any matters under your jurisdiction, I can understand your concern.

Because you share our interpretation of the Coordination Act that FWS and NMFS should be accorded equal status, and because of your support in the last Congress for the provision in S. 1132 which would have accorded these agencies equal status under section 30(c) of the Federal Power Act, I applaud your decision not to ask for sequential referral to consider these provisions. I assure you that this Committee is not interested in taking any legislative action that would affect fish and wildlife matters within your Committee's jurisdiction. I reiterate that H.R. 44 provides only how FERC will act upon recommendations made by Federal and State fish and wildlife agencies under the Fish and Wildlife Coordination Act.

With best wishes,

Sincerely,

JOHN D. DINGELL,
*Chairman.*

Mr. CHANDLER. Mr. Speaker, between now and 1990, over 170 hydroelectric projects will come up for relicensing. I have a deep concern that the relicensing process be conducted in a fair and responsible manner, and I have joined with over 180 of our colleagues who share this concern in cosponsoring H.R. 44, the Electric Consumers Protection Act.

This legislation provides a simple solution to the dilemma caused by conflicting Federal Regulatory Commission decisions handed down on the question of preference on relicensing. H.R. 44 would assure that any utility which has properly built and operated a hydroelectric project in the public interest and demonstrates that it will continue to do so, will be able to keep running it in the future.

H.R. 44 clarifies how relicensing questions should be fairly decided. This legislation makes the all important distinction between a utility which is applying for a license and the original licensee. During the relicensing process under H.R. 44, if FERC concludes that both applicants will do an equal job of using the public water resource, simply fairness would dictate that FERC break the tie in favor of the original licensee who built the generating project and its customers who have paid for it.

I believe H.R. 44 keeps the consumer's best interest in mind, by allowing the electric customers who have paid in their rates over the years for construction, financing, operation and maintenance of the project to continue in the future to receive the low-cost electricity which is generated.

I strongly urge my colleagues to support this vital, pro-consumer bill.

Mr. LEHMAN of California, Mr. Speaker, this week the House will consider H.R. 44, the Electric Consumers Protection Act of 1985, legislation clarifying discrepancies regarding the relicensing of hydroelectric power projects by the Federal Energy Regulatory Commission.

As a Member whose district includes both public and privately-owned utilities, I applaud the efforts of the House Energy and Commerce Committee, my California colleagues who were a part of the compromise efforts, and the representatives of the utility industry for this important consensus legislation. I am pleased to join a majority of my colleagues in supporting H.R. 44 on the floor of the House.

While H.R. 44 clarifies FERC's role in the relicensing process, includes a number of important environmental safeguards, and addresses the role of the Public Utility Regulatory Policies Act [PURPA] in hydroelectric development, I would like to bring to the attention of the House my continuing concern regarding the issue of small hydro development.

In response to the energy crisis of the late 1970's, Congress passed legislation to foster the development of renewable and alternative energy sources. With regard to small hydro development, Congress intended that these incentives were to apply only to existing facilities or on facilities that would not have a negative impact on the natural qualities of a resource.

However, the subsequent implementation by FERC broadened the definition to include new facilities and the number of small hydro applications which were filed with FERC increased dramatically. The most dramatic increase occurred in the West where literally thousands of small, free-running mountain streams became the target for energy development.

Though many of the projects were for retrofitting existing dams or on streams which posed only marginal threat to fish and wildlife, a large majority were proposed on scenic or environmetally sensitive streams. At these sites, speculators were taking advantage of both tax incentives and law requiring utilities to pay for the power at "avoided costs" of generating electricity with oil. Furthermore, many of these projects were clustered in one area or in a watershed region which already had serveral large hydroelectric projects. If allowed to be constructed, many of these small hydro projects would provide further deterioration of the natural resources and aesthetic values of a watershed region.

Unfortunately, FERC has been consistent in its role in facilitating the development of new small hydro projects by providing little, if any administrative relief in meeting the environmental concerns relating to the proliferation of small hydro development. Only court actions and intense congressional pressure has forced either delays of comprehensive studies of cumulative impacts on watershed regions.

H.R. 44 does provide some relief in this regard by requiring FERC to prepare a study analyzing the need for PURPA and other benefits on new facilities, as well as the environmental impacts of both new and existing facilities on watersheds.

However, the legislation grandfathers certain projects that have "committed substantial resources" during the licensing proceeding. I would like to remind my colleagues that the problems associated with small hydro development have been the result of the blatant disregard for congressional intent by FERC and further exacerbated by FERC's steadfast unwillingness to address this problem in an early and equitable manner. To leave this in

the hands of FERC invites further difficulties. The small hydro provisions of H.R. 44 do not go far enough in resolving this issue and I would urge the conference committee on this legislation to take another look at providing more remedial relief and uphold the original intent of Congress.

I am a strong advocate of energy conservation and alternate energy development, including reasonable small hydro development. However, there continues to be need to address the incentives provided for this type of development. The need for this relief is especially true with regard to a stream which flows through Madera County, located in my congressional district, and which is typical of the streams targeted for development. I would like to take the liberty of enclosing a copy of a Fresno Bee editorial written almost exactly a year ago by Mr. Gene Grigg which clearly describes the issue as it relates to Whisky Creek.

[From the Fresno Bee, Apr. 29, 1985]

DON'T KILL THIS SIERRA STREAM

(By Gene Grigg)

According to Charles W. Clough's history of Madera County, Whisky Creek used to be called Alder Creek, but in 1877 a store was opened near what is now the subdivision of Cascadel, four miles from North Fork. The store had the reputation for selling "a few groceries, cheap callco and lots of whiskey." It was then, writes Clough, that the Indians changed the name of Alder Creek to Whiskey Creek.

Clough spells Whiskey with an "e," but U.S. Geological Survey maps show it with that letter, so I guess the second spelling is about as official as you can get. It's whisky Creek as far as I am concerned, and others can differ if they want. Whatever the spelling, it's one of the prettiest streams in the Sierra.

It starts as a trickle 7,000 feet above North Folk, plunges across hillsides, cuts through forests, churns into a white-water frenzy over shallow rocks, and finally glides into a quiet confluence with Willow Creek, 11 miles downstream.

Trails along it are favorites for hiking and camping, and local people and those from Fresno go there every summer to swim in its pools. The fishing in Whisky Creek also is excellent, even though it is unplanted with trout.

As you can see, Whisky Creek has a personality, a self. To many people who know it, it seems alive. It is the kind of natural wonder that you hope will never be changed.

Whisky Creek will be changed beyond recognition, though, if the state Water Resources Control Board allows three hydro projects to be built on it. These would be small projects, producing just a few kilowatts. They would each consist of a low dam diverting part of the creek flow into penstocks of from 10 to 30 inches in diameter.

The water would go through the penstocks into turbines and then back into the creek. Five miles of the 11-mile-long creek would be piped this way. A rivulet would be left with enough water to sustain fish, but Whisky Creek's boisterous, varied personality would be gone.

The saddest part of this story is that Whisky Creek isn't the only Sierra stream threatened by small hydro projects. Just about every stream, public or private, that has the slightest possibility of generating electricity runs the same risk.

The situation results from the 1978 oil crisis. To wean the United States from its dependence on foreign oil, Congress passed legislation requiring utilities to buy power from any source that could provide it. The utilities were required to pay for the power at the "avoided costs" of generating electricity with expensive oil.

That made almost any kind of hydro project highly profitable. Businessmen were spurred into action. They searched maps for any stream with water that could be piped into a generator. The best finds in California are on previously undammed creeks, like Whisky Creek, on federal lands in the Sierra.

Developers have filed hundreds of applications for new projects with the Federal Energy Regulatory Commission. FERC's processes are badly flawed. It handles each application by itself and doesn't normally consider the cumulative environmental damage a number of projects would have on specific watersheds. Only because of pressure from Rep. Tony Coelho, D-Merced, did FERC finally agree to conduct a cumulative study in the Central Sierra.

The state Water Resources Control Board also is part of the approval process, for it must issue water division permits for small hydro projects. Since the 1978 legislation, the board has granted permits to 88 small hydro projects and is processing 275 additional small hydro applications. According to Save Our Streams (SOS), a North Fork organization working to keep small hydro off Whisky Creek, the state board has never turned down an application for environmental reasons.

This makes one wonder what the board's criteria are. It is an inescapable conclusion that many of the approved projects will do environmental damage. It ought to be emphasized, however, that the small hydro opponents are not against all water development. They have supported new projects on irrigation canals and improvements at existing facilities, it's the rush for new small projects on pristine streams that arouses their ire.

Environmentalists have been getting support from other quarters also. Recently a spokesman for the California Energy Commission, which makes recommendations on what state energy policy should be, said the commission prefers those small hydro projects "which are proposed for man-made waterways, canals and existing impoundments." That would rule out projects like those on Whisky Creek.

Another recruit on the opponents side is Ray Walsh, chief of the division of water rights for the state Water Resources Control Board, which will hold hearings on the Whisky Creek permits in June.

In a four-page memorandum to the energy commission, Walsh points out that power from small hydro projects would be produced in greatest quantities during the spring. That's when large hydropower dams owned by utilities are operating at peak capacity and additional power is not needed. In fact, that's the very time the utilities in the Northwest are dumping excess power and selling it to California utilities at bargain rates. During summer, when power demand is highest, the creeks would be mostly dried up and small hydro projects wouldn't be operating, Walsh says.

Whisky Creek runs all year round, but still it would be most productive in power in spring, when power isn't really needed. That, besides the environmental arguments, is another powerful reason against clogging that beautiful stream with small hydro projects. Why kill a stream when its death will only help a group of businessmen with dollars in their eyes?

Mr. FUQUA. Mr. Speaker, I rise today in support of H.R. 44, the Electric Consumers Protection Act of 1985. This legislation addresses a basic question of fairness and equity in the relicensing of existing hydroelectric projects around the country; it is designed to protect the interests of millions of America's electricity customers who have paid for the development and operation of hundreds of hydro projects at the very time when these projects are proving their great value in providing low-cost, reliable and renewable energy.

Opponents of this bill would have us believe that it is in the "public interest" to hand these projects to government-run entities through the exercise of a claimed "municipal preference." In fact, this preference does not exist in the law, nor has it ever existed, for the relicensing of these projects. Public power proponents would also have us believe that the passage of this legislation would ultimately result in the death of public power in this country—that this is just the beginning of an effort to strip government-run utilities of all their existing power marketing preferences. That, too, is incorrect. What we are doing with this legislation is simply protecting innocent consumers who have paid for an investment for the future—low-cost electricity from fuel-free hydroelectric projects—from unwarranted loss. Why, after 50 years or more of paying for these projects, should these consumers be denied the low-cost benefits of hydroelectric power simply because their electric utility happens to be a private company? There is absolutely no reason.

The Electric Consumers Protection Act is simple, fair legislation that sets the record straight regarding a single, precise point in the Federal Power Act of 1920: Municipal preference does not apply to the relicensing of existing hydroelectric projects licensed by the Federal Energy Regulatory Commission. This point has, over the past 6 years, been the subject of strenuous debate and litigation—all of which has failed to finally resolve the question. Congress must resolve it once and for all.

Public power advocates have alleged on many occasions that Congress, back in the deliberations leading to the enactment of the 1920 law, never intended private companies to retain the licenses for hydroelectric projects after the expiration of their initial term. I disagree with the implication that our predecessors intended, consequently, that these valuable energy assets be automatically turned over to government-owned utilities. But what matters in 1986 is what Congress intends today. We have an opportunity here to correct both an ambiguity in the law regarding the operation of municipal preference and the apparent misperception in the minds of some that the 76 percent of Americans served by our investor-owned electric utility industry does not constitute a substantial portion of "the public." In fact, they are the public.

Although consumers in the State of Florida benefit only indirectly from low cost hydro power to the extent it makes up some of the

power transmitted into the State from our northern neighbors, what is at stake here are important principles of fairness and equity. By enacting H.R. 44 we are confirming the public policy in favor of widespread enjoyment of hydroelectric power. We are rejecting the notion that those who paid for its development and operation over 50 or more years can be deprived of the benefits by operation of a congressionally sanctioned preference for a privileged few. I urge my colleagues, whether from States blessed with hydro resources or not, to vote for enactment of this carefully crafted bipartisan compromise legislation that so properly reflects the public interest today.

H.R. 44 also contains important environmental provisions and is endorsed by major environmental organizations.

This vital legislation deserves the support of all Members and I urge you to join me in voting for H.R. 44.

Mr. BEVILL. Mr. Speaker, I rise today in support of H.R. 44, sponsored by my good friend and colleague, RICHARD SHELBY. I am proud to have cosponsored this bill because it represents sound legislative policy.

H.R. 44 would achieve two things: It would provide a fair and orderly method for relicensing hydroelectric plants and would provide for the payment of just compensation to the existing licensee if its project is licensed to another applicant.

H.R. 44 would affect only those hydro facilities licensed by the Federal Energy Regulatory Commission under the Federal Power Act. It would amend the act to make clear that the preference in favor of municipal and other State agencies in the initial licensing of hydroelectric projects does not work against existing licensees when their licenses expire.

I don't think it is fair that a licensee should be ousted from a project which it has built and operated for many years, unless it is shown that the licensee has failed to live up to the conditions of the license or that a new applicant has a better plan for the development and use of the project in the future.

In order for there to be fair competition for the relicensing of these projects, I believe there should be no preference. Let all compete on an equal basis and select the best proposal.

If an existing licensee loses its license to operate a hydro plant, then the project owner should be fairly compensated. H.R. 44 provides for the payment of just compensation.

I urge my colleagues to support this bill.

Mr. MILLER of California. Mr. Speaker, I am pleased to support H.R. 44, the Electric Consumers Protection Act. Mr. Speaker, without the dedication of the chairman of the House Energy and Commerce Committee, JOHN DINGELL, and Subcommittee Chairman ED MARKEY, we wouldn't be considering this bill. Their hard work, and that of Congressmen RICHARD SHELBY and CARLOS MOORHEAD, among others, were responsible for this historic legislation.

H.R. 44 contains many compromises. The shifting circumstances surrounding the relicensing issue and the remarkable accommodation of conflicting views that was required to bring this bill forward made it necessary for everyone to accept something short of their strongest position. But the end result is sound—H.R. 44's relicensing reforms are fair, workable, and in the public interest.

Hydroelectric facility relicensing is an issue of enormous importance to consumers throughout the country. In California, 10 million people have benefited from licensed hydroelectric facilities. The fear of losing these benefits have been reduced by the outright rejection of the public power preference in H.R. 44.

Hydro relicensing is not a private versus public power or even a utility issue. Hydro benefits are passed directly through to the consumers, and utility company consumers are every bit as much the "public" as those served by other kinds of systems. By recognizing this essential equality, H.R. 44 ultimately protects all electric consumers.

The environmental provisions in H.R. 44 are also of great importance to California, where we have seen an explosion in attempted "small hydro" development on our rivers and streams. I want to express my special appreciation to Chairman DINGELL for his continuing effort to make the consumer and the environment equal partners in the search for sound hydroelectric development. H.R. 44's express direction that fish and wildlife concerns are to be given full equity with other purposes of the act is an important clarification.

The small hydro elements in H.R. 44 address a particular environmental concern of mine. The mandatory-avoided cost provisions in the Public Utilities Regulatory Policy Act have encouraged the indiscriminate development of small hydro facilities on our rivers and streams. It was the threat to our remaining free-flowing rivers and streams posed by indiscriminate small hydro development which led me to introduce H.R. 1959 as a logical extension of H.R. 44. The number of new developments currently qualifying for PURPA benefits is not justified. When PURPA was passed in 1978, the Congress said that PURPA benefits were to go to facilities built at existing dam sites only—not to facilities at new dam sites.

H.R. 44 prohibits FERC from accepting any applications for a small hydroelectric facility license until a study of the need for an environmental impacts of these new dams has been completed. In addition, H.R. 44 prohibits the issuance of a license for facilities on a watercourse which possesses unique natural, recreational, cultural, or scenic values.

I also am pleased that H.R. 44 will leave ample room for competition in the public interest. The legislation requires the Federal Energy Regulatory Commission to license facilities which meet genuine consumer needs, sound conservation principles, comprehensive environmental protection and the broad, efficient and reliable utilization of hydropower benefits.

H.R. 44's relicensing reforms and its environmental provisions represent the legislative process at its best. I strongly support its passage.

Mr. SHELBY. Mr. Speaker, as the lead sponsor of H.R. 44, the Electric Consumers Protection Act, I urge this body to act favorably on this landmark piece of legislation which would benefit a majority of consumers nationwide.

I first took up this battle more than 2 years ago because of the potential rate impact, without corrective legislation, on the electric consumers in my home State of Alabama. Without this legislation, over 60 percent of Alabama consumers, who are served by a regulated utility there, would risk losing the benefit of inexpensive, clean hydroelectric power. In addition, many Alabamians, who are indirect customers through wholesale arrangements, would be adversely affected.

The Alabama Power Co. holds operating licenses for 14 dams along the State's waterways. As of December 1, 1984, these projects had a value, based on 1985 equivalent fossil replacement cost, of approximately $2.7 billion. Because of the many conflicting decisions at the Federal Energy Regulatory Commission and in the courts over the issue of preference at relicensing, I am convinced that without this legislation, all of the licenses would be at risk of being transferred. The cost to the Alabama consumer would be extremely burdensome as these projects will have an equivalent fossil replacement cost at the time of license expiration of more than $18 billion. Most of the cost of constructing these dams has already been passed on to the customers through their electric bills, so the power they get from the dams is now very cheap. This is particularly important in a period when building any new generating capacity is extremely difficult and expensive.

In response to the uncertainty surrounding relicensing and the inequities resulting without corrective legislation, the Energy and Commerce Committee has unanimously presented H.R. 44 for this Chamber's approval. The bill before us now contains a much-improved relicensing procedure. At relicensing, the FERC would grant a license based on the best plan presented by the applicants, rather than on the arbitrary basis of the applicant's form of ownership. Further, the customers of the original licensee could be compensated for the adverse impact on their electric rates caused by the transfer.

I want to emphasize that this legislation does not in any way affect the preference to municipalities when the FERC issues a first and original license for a hydroelectric project. Just as I think it is crucial for the customers of an existing licensee to be protected by H.R. 44, it is important to maintain local control at the original licensing. Further, this legislation does not in any way affect the Federal power marketing preference which enables municipal systems to provide cheap power to their customers.

Mr. Speaker, I am very thankful for the support and encouragement I have received throughout this effort. All my colleagues in the Alabama delegation cosponsored this legislation, and it has attracted broad bipartisan support from Members across the Nation. In all, 184 House colleagues are cosponsors. Scores of editorials in major news publications and organizations representing business, labor, farm, utility regulator and environmental groups have endorsed H.R. 44's goal of consumer protection.

While H.R. 44 was a simple bill as introduced, bringing it through the legislative process has been a great test of our legislative skills and willingness to compromise. I am proud of all who have taken part in this proc-

ess, and today, Mr. Speaker, we present to the House of Representatives and the Nation a fine product of diligent work.

H.R. 44 is an equitable and balanced bill. It establishes a fair process for the relicensing of hydroelectric facilities which is long overdue. It strengthens actual FERC procedure and requires a more thorough review of several important factors, including the impact on fish and wildlife and plans to promote energy conservation. The bill also addresses concerns of many of our colleagues over the licensing of hydro dams under PURPA.

One of the more difficult issues raised in our discussions was to address the situation of an actual license transfer from one party to another. How would the second party be guaranteed that it would receive the benefits of the project after a takeover? After long negotiations, we arrived at a provision that arranges for coordination services between the old and new licensee. This provision is delicately crafted and is one of which I am particularly proud.

H.R. 44 contains numerous other provisions which strengthened its level of support. It is an end product of many hours of negotiations between staff, interested outside parties and Members both on and off the Energy and Commerce Committee. H.R. 4 presents a true national consensus.

Mr. Speaker, I commend my friend and colleague, Mr. MARKEY of Massachusetts for his skill and patience in dealing with this issue as our new chairman of the Energy Conservation and Power Subcommittee. It was not long ago when moving legislation through the subcommittee appeared to be a rare occurrence. H.R. 44 is one of a number of landmark pieces of legislation that the subcommittee has successfully brought to the floor under the leadership of Chairman MARKEY, and I hope we will be able to continue this record of effectiveness and cooperation throughout this session of Congress. Relating to H.R. 44, his participation on behalf of promoting energy conservation was most appreciated.

I also thank my dear friend and colleague, Mr. DINGELL, the chairman of the full Energy and Commerce Committee, who actively participated in this process from the beginning and whose guidance at key junctures was vital. I also want to commend him for his help in addressing concerns of the environmental community, particularly with respect to fish and wildlife.

Mr. Speaker, I would like to thank my Republican colleagues on the subcommittee for their support and help in this bipartisan effort. I particularly appreciate the leadership shown by the subcommittee's ranking minority member, Mr. MOORHEAD, and his able staff on behalf of consumers from California to Alabama.

My good friend on the subcommittee, Mr. HALL, has also been instrumental in his steadfast support throughout this entire process. My deep appreciation also goes out to Mr. SIKORSKI and to Mr. WYDEN and Mr. SWIFT who were placed in a difficult position concerning their own constituencies and how they were affected by the relicensing process. I compliment them both for their gentlemanly manner.

There were several House colleagues who played major roles in crafting this legislation, even though they are not members of the Energy and Commerce Committee. A number of them actively participated in subcommittee member meetings to iron out various differences between the interested parties. Mr. BEVILL, an institution in my State of Alabama, has been a tower of strength behind this effort, Mr. Speaker, as well as my good friend, Mr. MILLER of California. Mr. MATSUI is also to be commended for his help and participation, as well as my good friend, Mr. COELHO of California.

I think we would be remiss, Mr. Speaker, if we did not call the attention of the House to the long months of hard work put forth by our committee and personal staffs. Surely they deserve our thanks and praise for a job well done.

Mr. Speaker, I am sure I have left out others who deserve our appreciation for what we have led for the past 2½ years has been a genuine national movement involving the tireless efforts of many, many individuals. And that effort has been well worth it for the benefit of electric consumers nationwide.

Mr. Speaker, the Electric Consumers Protection Act is a consensus bill forged by hard work and a commitment to do the right thing for our constituents. I urge all my colleagues in the House to place their enthusiastic stamp of approval on H.R. 44 and to join me in moving this bill through the remainder of the legislative process so that it can be signed into law this year. Thank you, Mr. Speaker.

Mr. COELHO. Mr. Speaker, I would like to voice my support for the hydro relicensing reform embodied in H.R. 44. It has long been clear to those of us who've seen hydro relicensing cases up close, that a preference for outsiders simply makes no public interest sense. The uncertainty that has surrounded the preference question has already gone on far too long.

This bill leaves plenty of room for anyone who really has proof that they can do a better job. The municipal utilities of California have always maintained that they offered a better alternative, so these changes should leave them unaffected. All in all, I believe the committee members have done a fine job of grappling with the problem posed by the judicial confusion over relicensing preference.

I am troubled by the features in H.R. 44 that require consumers involved in pending cases to make retribution to their opponents, just to assure the act's protection. But that issue will be taken up in conference and I am confident that a sound result can be reached there.

It's rare to see a truly bipartisan resolution of a hotly contested issue. H.R. 44 represents such a resolution and should go a long way toward restoring calm and careful consideration in this area of such vital importance to America's electric consumers. My congratulations to Chairman DINGELL, Chairman MARKEY and to all of H.R. 44's cosponsors for a job well done.

Mr. PASHAYAN. Mr. Speaker, I should like to congratulate our distinguished colleagues on the Committee on Energy and Commerce for bringing the Electric Consumers Protection Act of 1985 to the floor. For those of us who first recognized the need for legislation clarifying the relicensing provisions of the Federal Power Act in the previous Congress, this day has been a long time coming.

As an original cosponsor of the bill on the floor today as well as the effort in the last Congress, I have held that the relicensing of hydroelectric projects is a consumer issue, that the benefits flow directly to the people who pay the bills each month.

A relicensing preference favoring municipally run operators over the private companies that many years ago built the dams and installed the generators is unfair and unjust. Nowhere was that potential injustice more apparent than in my own congressional district in California where the view that preference should apply against existing licensees and their customers threatened consumers with rate increases mounting in the hundreds of millions of dollars.

The controversy regarding hydroelectric relicensing and the preference clause has established a great deal of wasteful and unnecessary tension between the regulated investor-owned utility companies and the municipally run systems. With the cooperation and leadership of Chairman ED MARKEY of the Subcommittee on Energy Conservation and Power, I participated in the hearings on H.R. 44 and I was most impressed then and now with the fact established there—and now restated in the Energy and Commerce Committee report—that both investor-owned and municipal license holders generally agreed "that licenses should not be transferred upon the expiration of an existing license unless another applicant submits a better proposal for the project." H.R. 44 does no more than recognize the commonsense fairness in that mutually held position.

H.R. 44 certainly has grown longer on its road to becoming concensus legislation. For my part, I am concerned with that part of the bill that would require consumers threatened in pending litigation to pay money to secure the protection we have taken so long to bring them. As the committee report so aptly states:

The judicial controversy over whether, in the case of a tie, this tie-breaker applies is still not ended, and no end is expect soon.

Indeed, I can see no justification for requiring payments from the people we seek to protect.

Nonetheless I am aware of the effort that has gone into bringing H.R. 44 this far and I am not going to press today for changes that would in any way thwart or slow the progress of that which has been achieved. H.R. 44 does attain our primary consumer protection goals. Further, it brings forth the action demanded by the consumer.

Final resolution to this issue of relicensing will dispell the cloud now hanging over every hydroelectric relicensing application pending before the Federal Energy Regulatory Commission and it will do so in a way that poses no threat whatever to public power or to preferences not related to hydroelectric relicensing. H.R. 44 is sound, needed legislation and I urge all those who believe in fairness and in consumer protection to join with me in voting in support of H.R. 44.

This effort does eliminate the confusion and does restore consumers' confidence in a utility's ability to secure and provide hydroelectric

power. It does quash the potential of raising rates and forcing construction of alternative sources for existing consumers.

The bill today does not alter nor do its authors intend to alter in any way the existing preference for municipal and State preferences in original license applications. Nor does the legislation deal with municipal and State preference for power from federally built facilities.

In my State of California 85 percent of the consumers of electric power are served by investor-owned utilities. To turn over the facilities built by those utilities would enrich only one in nine consumers. That is neither fair nor equitable.

Commissioner A.G. Sousa of the Federal Energy Regulatory Commission, during in hearings in May 1984, expressed the matter thus:

Admittedly, if I had been given an opportunity to write on a clean slate, I would have preferred a statute which would have given the original licensee a first option for a license renewal, provided that licensee met strict public interest criteria. Since the original licensee has little to gain, but its ratepayers have much to lose, that approach would be the fairest, the least disruptive, and the most likely to advance the public interest.

Mr. Speaker, Commissioner Souza's principle would be accomplished with passage of H.R. 44.

Mr. MILLER of California. Mr. Speaker, I am pleased to support H.R. 44, the Electric Consumers Protection Act. Mr. Speaker, without the dedication of the chairman of the House Energy and Commerce Committee, JOHN DINGELL, and Subcommittee Chairman ED MARKEY, we wouldn't be considering this bill. Their hard work, and that of Congressmen RICHARD SHELBY and CARLOS MOORHEAD among others were responsible for this historic legislation.

H.R. 44 contains many compromises. The remarkable accommodation of conflicting views that was required to bring this bill forward made compromise inevitable. But the basic result is sound—H.R. 44's relicensing reforms are fair, workable and in the public interest.

Hydroelectric facility relicensing is an issue of enormous importance to consumers throughout the country. In California, 10 million people have benefited from licensed hydroelectric plants. The fear of losing those benefits has been reduced by the outright rejection of any municipal relicensing preference contained in H.R. 44.

Hydro relicensing is not a private versus public power issue. Hydro benefits are passed directly through to the consumers, and utility company consumers are every bit as much the "public" as those served by other kinds of systems. By recognizing this essential equality, H.R. 44 ultimately protects all electric consumers.

We have been advised by our distinguished colleagues Mr. MATSUI that he intends to discuss H.R. 44's "grandfathering" payment provisions. These provisions force consumers seeking protection in pending cases to pay all their opponents application and litigration expenses and to make an additional payment equal to a reasonable percentage of the entire net investment in the project. Mr. MATSUI now wants to argue that the words "a reasonable percentage of net investment" should somehow be read as meaning more than net investment.

These pending cases were all begun with no assurance that the courts and Congress would ultimately permit a preference for municipal outsiders. Each of the municipal challengers claims to have a better application. If that's so, H.R. 44 will give them every opportunity to win. Under these circumstances neither side should be required to subsidize the other's expenses. The additional requirement for payment over expenses was summed up by a newspaper serving one of these municipal applicants: "Some might call it a payoff. Some might call it blackmail * * *. What about us, the people who make up the water district? Should we be pleased at the prospect of being enriched by a shakedown?" (Sonora Union-Democrat, Feb. 27, 1986.)

Mr. MATSUI says that a reasonable percentage of net investment should be read to mean more than net investment. But desire can change plain language. A reasonable percentage of something has a fixed common sense meaning. When I offer someone a reasonable percentage of my sandwich, I'm certainly not offering him two sandwiches.

These provisions were put into H.R. 44 when the court of appeals first issued its decision favoring municipal applicants of the Merwin Dam case. But that decision is now vacated. The uncertainty of any given result is now reaffirmed. As the committee report declares: "The judicial controversy over whether, in the case of a tie, this tie breaker applies is still not ended and no end is expected soon." Hopefully, the conference will fairly resolve this controversy.

The environmental provisions in H.R. 44 are of great importance in California—where we have seen an explosion in attempted "small hydro" development on our rivers and streams. I want to express my special appreciation to Chairman DINGELL for his continuing effort to make the consumer and the environment equal partners in the search for sound hydroelectric development. H.R. 44's express direction that fish and wildlife concerns are to be given full equity with other purposes of the act is an important clarification.

The small hydro elements in H.R. 44 address a particular environmental concern of mine. The mandatory avoided cost provisions in the Public Utilities Regulatory Policy Act have encouraged the indiscriminate development of small hydro facilities on our rivers and streams. It was the threat to our remaining free-flowing rivers and streams posed by the scramble for small hydro development which led me to introduce H.R. 1959 as a logical extension of H.R. 44. The number of new developments currently qualifying for PURPA benefits is not justified. When PURPA was passed in 1978, the Congress said that PURPA benefits were to go to facilities built at existing dam sites only—not to facilities at new damsites.

H.R. 44 prohibits FERC from accepting any applications for a small hydroelectric facility license until a study of the need for and environmental impacts of these new dams has been completed. In addition, H.R. 44 prohibits the issuance of a license for facilities on a watercourse which possesses unique natural, recreational, cultural, or scenic values.

H.R. 44's direct relicensing reforms and its environmental provisions represent the legislative process at its best. I strongly support its passage.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 44, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 426) to amend the Federal Power Act to provide for more protection to electric consumers, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 426

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be referred to as the "Electric Consumers Protection Act of 1985".

SEC. 2. Section 7(a) of the Federal Power Act (16 U.S.C. 800(a)), as amended, is further amended—

(a) by inserting "original" after "hereunder or"; and

(b) by striking "and in issuing licenses to new licensees under section 15 hereof".

SEC. 3. Section 10 of the Federal Power Act (16 U.S.C. 803), as amended, is further amended—

(a) in existing subsection (a) after "water power development,", by inserting "for the adequate protection, mitigation, and enhancement of fish and wildlife,";

(b) in existing subsection (a) after "including", by inserting "irrigation, flood control, water supply and"; and

(c) by redesignating existing subsection (a) as paragraph (a)(1) and by inserting the following new paragraphs:

"(2) In order to ensure that the project adopted will be best adapted to the comprehensive plan described in paragraph (a)(1), the Commission shall consider:

"(A) the extent to which the project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected by the project that is prepared by—

"(i) an agency established pursuant to Federal law that has the authority to prepare such a plan; and

"(ii) the State in which the facility is or will be located; and

"(B) the recommendations of Federal and State agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, and cultural re-

sources of the State in which the project is located, and the recommendations of Indian tribes affected by the project; and

"(C) if the applicant is an electric utility, its plans for energy conservation through energy efficiency programs.

"(3)(A) Upon receipt of an application for a license, the Commission shall solicit recommendations from the agencies and Indian tribes identified in paragraph (a)(2) of this section for proposed terms and conditions for the Commission's consideration for inclusion in the license.

"(B) If any recommendation for a proposed term or condition is received by the Commission within one hundred and twenty days of the public notice of any license application under this section, the Commission shall explain in writing its reasons for adopting, rejecting or modifying any such proposed term or condition.".

SEC. 4. Section 15 of the Federal Power Act (16 U.S.C. 808), as amended, is further amended—

(a) by striking subsection (a) through "terms and conditions to a new licensee," and inserting in lieu thereof:

"SEC. 15(a). If the United States does not, at the expiration of the existing license, exercise its right to take over, maintain and operate any project or projects of the licensee, as provided in section 14 of this Act, the Commission may issue a new license to the existing licensee upon such terms and conditions, taking into account existing structures and facilities, as may be authorized or required under the then existing laws and regulations, or to another applicant under said terms and conditions. If the existing licensee applies for a new license, the Commission shall issue a new license to such existing licensee unless the Commission determines that the plans of another applicant are better adapted to serve the public interest. If the existing licensee does not apply for a new license, the Commission shall issue a new license to the applicant the plans of which are best adapted to serve the public interest. In either case, the Commission shall not issue a license unless it is satisfied that (1) the applicant is able to carry out such plans and (2) the plans represent a cost effective approach to achieving the benefits to be derived therefrom.

"(b) The Commission shall make its determination of which plans are best adapted to serve the public interest on the basis of—

"(1) how each plan would develop, conserve, and utilize the water resources of the region in accordance with the provisions of section 10(a) of this Act;

"(2) the relative economic impact upon customers served by each applicant upon the failure of such applicant to receive the license, including an assessment of the economic impact upon the customers of an applicant that is the existing licensee that would result from the difference between the compensation to be paid under subsection (c) of this section and the cost of replacement power;

"(3) the economic impact, in the case of nonutility license holder, upon the operation and efficiency of the dependent industrial facility or related activity, its existing employees, and the surrounding community, if the existing licensee fails to receive the new license;

"(4) the ability of each applicant to operate and maintain the project in a manner most likely to provide efficient, reliable electric service; and

"(5) the need of each applicant for the electricity generated by the project or projects to serve its existing customers including customers served by any electric utility which receives power from the existing licensee.";

(b) by redesignating the remainder of subsection (a) as subsection (c);

(c) by striking "which license" and inserting in lieu thereof "A license issued under this section";

(d) by redesignating existing subsection (b) as subsection (d);

(e) by adding a new subsection:

"(e) A new license may only be issued for a period not to exceed thirty years unless the Commission determines that a longer period is necessary due to substantial new construction or significant redevelopment of the project in question. In no case shall a new license be issued for a period of more than fifty years. "; and

(f) by adding a new subsection:

"(f) Notwithstanding any other provision of this section, for projects using tribal lands embraced within Indian reservations, the original license for which was issued prior to October 1, 1985 and for which a new license has not yet become effective by such date, the Commission shall not consider the factors set forth in sections 15(b)(2) and 15(b)(5) in evaluating the plans of Indian tribes to which such lands belong that apply for a new license.".

SEC. 5. The amendments made by this Act shall not apply to any relicensing proceeding in which the Federal Energy Regulatory Commission has issued an order awarding a new license on or before July 31, 1985, regardless of whether such order is subject to judicial review, nor shall they operate to diminish the amount of the annual charge to be paid pursuant to section 10(e) of the Federal Power Act to Indian tribes for the use of their lands within Indian reservations.

SEC. 6. Section 30 of the Federal Power Act (16 U.S.C. 824), as amended, is further amended by striking subsection (b) and inserting in lieu thereof the following new subsection:

"(b) Exemptions granted under subsection (a) of this section shall be granted for a period not to exceed thirty years unless the Commission determines that a longer period is necessary due to substantial new construction or significant redevelopment of the project in question. In no case shall an exemption be granted for a period of more than fifty years. The Commission may not grant any such exemption to any facility the installed capacity of which exceeds 15 megawatts.".

SEC. 7. Section 405 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2705), as amended, is further amended in subsection (d) by inserting at the end thereof: "Exemptions shall be granted for a period not to exceed thirty years unles the Commission determines that a longer period is necessary due to substantial new construction or significant redevelopment of the project in question. In no case shall an exemption be issued for a period of more than fifty years."

SEC. 8. Section 6 of the Federal Power Act (16 U.S.C. 799), as amended, is further amended after "fifty years" by inserting "unless the Commission determines a shorter period is desirable".

SEC. 9. The amendments made by sections 6 and 7 of this Act shall apply only to exemptions granted after the date of enactment of this Act.

SEC. 10. Section 3(17) of the Federal Power Act (16 U.S.C. 796(17)), as amended, is further amended—

(a) by adding a new paragraph (B) as follows:

"(B) Notwithstanding paragraph (A), no hydroelectric project shall be considered a small power production facility (other than for purposes of section 210(e) of the Public Utility Regulatory Policies Act of 1978) if such project impounds or diverts the water of a natural watercourse other than by means of an existing dam or diversion, unless:

"(i) such project is located at a Government dam; or

"(ii) such project meets terms and conditions set by fish and wildlife agencies under the same procedure as provided for under section 30(c) of the Federal Power Act;

"(iii) for the purposes of this paragraph, the term 'existing dam or diversion' means any dam or diversion that is part of a project for which a license has been issued on or before the enactment of this paragraph, or which the Commission determines does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) except for the addition of flashboards (or similar adjustable devices);"; and

(b) by redesignating the existing paragraphs.

SEC. 11. The amendments made by section 10 of this Act shall not apply to any hydroelectric project for which an application for a license or preliminary permit was filed with the Federal Energy Regulatory Commission on or before April 11, 1986.

SEC. 12. Section 26 of the Federal Power Act (16 U.S.C. 820), as amended, is further amended—

(a) by redesignating existing section 26 as "section 26(a)"; and

(b) by adding the following new subsections:

"(b) The Commission may—

"(1) after opportunity for a hearing on the record revoke for significant violation of its terms any permit, license, or exemption issued pursuant to this Act, whether granted under this Act or another provision of law;

"(2) issue such other orders as it deems necessary to ensure compliance with the provisions of this part, or of any lawful regulation or order promulgated thereunder, or of any permit, license, or exemption issued pursuant to this Act, whether granted under this Act or another provision of law.

"(c) The Commission may institute proceedings in the district court of the United States in the district in which the project or part thereof is situated for the purpose of enforcing an order of the Commission under subsection (b) of this section. The court shall have the same powers as provided for under subsection (a) of this section.".

(c) Section 13 of the Federal Power Act, as amended, is further amended by striking the final sentence thereof.

(d) Section 26(a) of the Federal Power Act, as amended, is further amended—

(1) by striking the first sentence and inserting in lieu thereof the following sentence: "The Commission, or the Attorney General on request of the Commission, or of the Secretary of the Army, may institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for significant violation of its terms any permit or license issued hereunder or any exemption from any requirement of this Act, whether granted under this Act or another provision of law, or for the purpose of remedying or cor-

recting by injunction, mandamus, or other process any act of commission or omission in violation of the provisions of this Act or of any lawful regulation or order promulgated hereunder."; and

(2) by adding at the end thereof the following new sentence: "In the case of revocation of an exemption from any requirement of this Act, whether granted under this Act or another provision of law, the courts may exercise the same powers as they have under this section with respect to revocation of a license.".

(e) Section 402(a)(2)(A) of the Department of Energy Organization Act, as amended, is further amended by inserting between "4," and "301" the following: "5, 13, 26, 30,".

(f) The amendments made by this section shall apply to licenses, permits exemptions, rules, regulations, and others issued before, on, or after the date of enactment of this Act.

SEC. 13. Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act—

(a) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any groundwater resource.

(b) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, or

(c) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

SEC. 14. Section 10(h) of the Federal Power Act (16 U.S.C. 803(h)) is amended by redesignating section 10(h) as 10(h)(1) and adding a new section 10(h)(2) as follows:

"(2) That conduct under the license that: (A) results in the contravention of the policies expressed in the antitrust laws; and (B) is not othewise justified by the public interest considering regulatory policies expressed in other applicable law (including but not limited to those contained in Part II of this Act) shall be prevented or adequately minimized by means of conditions included in the license prior to its issuance. In the event it is impossible to prevent or adequately minimize the contravention, the Commission shall refuse to issue the license to the applicant.".

SEC. 15. Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended—

(a) by striking *"And provided further"* and inserting in lieu thereof *"Provided further"*; and

(b) by striking the final period "." and inserting in lieu thereof the following: ": *And provided further,* That upon the filing of any application for a license the Commission shall seek to notify by certified mail the owner or owners of the property within the bounds of the project, and any State, municipality or other local governmental entity likely to be interested in or affected by such application.".

SEC. 16. Section 211(c)(2)(B) of the Federal Power Act is amended by adding before the period the following: ": *Provided,* That nothing in this subparagraph shall prevent an application for an order hereunder to be filed prior to termination of modification of an existing rate schedule: *Provided,* That such order shall not become effective until termination of such rate schedule or the modification becomes effective".

MOTION OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MARKEY moves to strike out all after the enacting clause of the Senate bill, S. 426, and to insert in lieu thereof the provisions of H.R. 44, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 44) was laid on the table.

## GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## INDIAN GAMING REGULATORY ACT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1920) to establish Federal standards and regulations for the conduct of gaming activities on Indian reservations and lands, and for other purposes, as amended.

The Clerk read as follows:

That this Act may be cited as the "Indian Gaming Regulatory Act".

SEC. 2. (a) The Congress finds that—

(1) numerous Indian tribes have become engaged in or have licensed gaming activities on Indian lands as a means of generating tribal governmental revenue;

(2) Indian tribes have the exclusive right to regulate gaming activity on Indian lands which is not specifically prohibited by Federal law and which is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity;

(3) there are no existing statutes which require approval of management contracts dealing with Indian gaming;

(4) existing Federal law does not provide clear standards or regulations necessary to insure the orderly conduct of gaming activities on Indian lands;

(5) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government; and

(6) tribal operation and licensing of gaming activities is a legitimate means of generating revenues.

(b) The Congress declares that the establishment of Federal standards for gaming activity on Indian lands and a National Indian Gaming Commission are necessary to meet the concerns regarding gaming activities and to protect such activities as a means of generating tribal revenue.

SEC. 3. (a) Except as provided in subsection (b), Class II and III gaming regulated by this Act shall be unlawful on any lands acquired by the Secretary, under any existing authority, in trust for the benefit of any Indian tribe after December 4, 1985, if such lands are located outside the boundaries of such tribe's reservation.

(b) Subsection (a) shall not apply if the Indian tribe requesting the acquisition of such lands in trust obtains the concurrence of the Governor of the State, the State legislature, and the governing bodies of the county and municipality in which such lands are located.

(c)(1) Except as provided in paragraph (2) of this subsection, during the four-year period beginning on the date of enactment of this Act, Class III gaming shall be unlawful on any Indian lands.

(2) Within sixty days of the date of enactment of this Act, the Secretary shall identify and prepare a list of each separate Class III gaming activity actually operated on Indian lands as of January 1, 1986, and shall publish such list in the Federal Register. Such Class III gaming activities, if otherwise legal under existing law and so long as they remain within the same nature and scope, shall not be subject to the provisions of paragraph (1) of this subsection.

(3) During the four-year period established by paragraph (1) of this subsection, the Commission shall—

(A) apply to the Class III gaming activities identified in paragraph (2) of this subsection the appropriate Class II provisions of section 11, 12, and 13, and

(B) within one hundred and twenty days after enactment of this Act, adopt and apply to such Class III gaming activities a regulatory scheme which is substantially equivalent to those of the State within whose boundaries such gaming occurs and shall require that such Class III gaming activities be brought into compliance with such regulations within sixty days after publication of such regulatory scheme in the Federal Register.

The provisions of this Act relating to the levy and collection of civil fines and temporary and permanent closures shall be applicable to such Class III gaming activities during the four-year period.

SEC. 4. Provisions of the Internal Revenue Code of 1954, as amended, concerning the taxation and the reporting and withholding of taxes pursuant to the operation of a gambling or wagering operation shall apply to the operations in accord with the Indian Gaming Regulatory Act the same as they apply to State operations.

SEC. 5. (a) There is established within the Department of the Interior an independent commission to be known as the National Indian Gaming Commission.

(b)(1) The Commission shall be composed of eight members as follows:

(A) a Chairman who shall serve full-time and who shall be appointed by, and serve at the pleasure of, the Secretary;

(B) a member to be selected by the Attorney General and appointed by the Secretary;

(C) five members, at least three of whom shall be enrolled members of federally recognized tribes, to be appointed by the Secretary from a list of not less than ten nor more than twenty candidates submitted and approved by a majority of the tribes then engaged in or regulating gaming activities; and

(D) one member appointed by the Secretary after consultation with appropriate organizations or entities, who shall represent the interest of the States;

(2) Not more than four members of the Commission shall be of the same political party.

(3)(A) Except for the Chairman and except as otherwise provided in this paragraph, members shall be appointed for terms of three years.

(B) Of the members first appointed—

(i) the member appointed pursuant to paragraph

(1)(B) and two of the members appointed pursuant to paragraph (1)(C) shall be appointed for a term of two years; and

(ii) the remaining members appointed pursuant to paragraphs (1)(C) and (1)(D) shall be appointed for a term of three years.

(4) Any individual who—

(A) has been convicted of a felony or gaming offense;

(B) has any management responsibility in any gaming activity regulated pursuant to this Act; or

(C) has a financial interest in, or management responsibility for, any management contract approved pursuant to section 12 of this Act

shall not be eligible for appointment to, or to continue service on, the Commission.

(5) except for the Chairman, a member of the Commission may be removed for good cause by a majority vote of the remaining members subject to the approval of the Secretary or, in the case of a member appointed pursuant to paragraph (1)(B), the Attorney General.

(c)(1) Vacancies occurring on the Commission as a result of the expiration of the terms of appointment shall be filled in the same manner as the original appointment. A member may serve after the expiration of his term until his successor has been appointed.

(2) Other vacancies occurring on the Commission shall be filled by a majority vote of the Commission and members so appointed shall serve the remainder of the terms for which his predecessor was appointed.

(d) Five members of the Commission shall constitute a quorum.

(e) The Commission shall select, by majority vote, one of the members to serve as Vice-Chairman who shall serve as Chairman during meetings of the Commission in the absence of the Chairman.

(f) The Commission shall meet at the call of the Chairman or a majority of its members.

(g)(1) The Chairman of the Commission shall be paid at a rate equal to that of level V of the Executive Schedule (5 U.S.C. 5316).

(2) Except as provided in paragraph (3), the other members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Service (5 U.S.C. 5332) for each day, including travel time, during which they are engaged in the actual performance of duties vested in the Commission.

(3) Members of the Commission who are full-time Officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(4) All members shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 6. (a) The Chairman of the Commission shall have the exclusive power—

(1) to approve tribal ordinances or resolutions regulating Class II gaming as provided in section 11(b);

(2) to approve management contracts for Class II gaming as provided in section 12; and

(3) to select, appoint, and supervise the staff of the Commission as provided in section 8.

(b) The Chairman shall have power, subject to the approval of the Commission—

(1) to appoint a General Counsel of the Commission; and

(2) to issue orders of temporary closure of gaming activities as provided in section 14(b).

(c) The Chairman shall have power, subject to an appeal to the Commission to levy and collect civil fines as provided in section 14(a).

(d) The Chairman shall have such other powers as may be delegated by the Commission.

SEC. 7. (a) The Commission shall have specific power, not subject to delegation—

(1) upon the recommendation of the Chairman, to approve the annual budget of the Commission as provided in section 17;

(2) to adopt regulations for the assessment and collection of civil fines as provided in section 14(a);

(3) by a vote of not less than five members, to adopt the annual assessments as provided in section 17;

(4) by a vote of not less than five members, to authorize the Chairman to issue subpoenas as provided in section 15; and

(5) by a vote of not less than five members and after a full hearing, to make permanent a temporary order of the Chairman closing a gaming activity as provided in section 14(b).

(b) The Commission shall have power—

(1) to monitor Indian gaming activities on a continuing basis;

(2) to inspect and examine all premises where Indian gaming is conducted;

(3) to conduct or cause to be conducted such background investigations as may be necessary;

(4) to demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross income of a gaming activity and all other matters necessary to the enforcement of this Act;

(5) to use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

(6) to procure supplies, services, and property by contract in accordance with applicable Federal laws and regulations;

(7) to enter into contracts with Federal, State, tribal and private entities for activities necessary to the discharge of the duties of the Commission;

(8) to hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate;

(9) to administer oaths or affirmations to witnesses appearing before the Commission; and

(10) to establish and implement such other standards, guidelines, and regulations as it deems appropriate not inconsistent with this Act and other applicable law.

SEC. 8. (a) The Chairman, with the approval of the Commission, shall appoint a General Counsel to the Commission who shall have a background in Indian affairs. The General Counsel shall be paid at the annual rate of basic pay payable for GS-18 of the General Schedule (5 U.S.C. 5332).

(b) The Chairman shall appoint other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such staff shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-17 of in General Schedule under section 5332 of that title.

(c) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) Upon the request of the Chairman, the head of any Federal agency is authorized to detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act, unless otherwise prohibited by law.

(e) The Secretary or Administrator of General Services shall provide to the Commission on a reimburseable basis such administrative support services as the Commission may request.

SEC. 9. The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairman the head of such department or agency shall furnish such information to the Commission, unless otherwise prohibited by law.

SEC. 10. The Secretary shall promptly appoint the members of the Commission, as provided in section 5 of this Act, and shall provide staff and support assistance to enable the Commission to meet and organize as soon as practicable thereafter.

SEC. 11. (a)(1) Class I gaming shall be within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

(2)(A) Except as provided in subparagraph (B) and (C), Indian tribes may engage in, or license and regulate, Class II gaming activity on Indian lands if the governing body of the Indian tribe adopts an ordinance or resolution to that effect which is approved by the Commission pursuant to subsection (b) or (c) of this section. Licenses are required for each place, facility, or location of Class II gaming activities.

(B) Subparagraph (A) shall not apply with respect to an Indian tribe if—

(i) a gaming activity is specifically prohibited on Indian lands by Federal law; or

(ii) such gaming activity is prohibited by the State within which such tribe is located as a matter of State public policy and criminal law.

(b)(1) An Indian tribe may engage in, or license and regulate, Class II gaming activity on the Indian lands of such tribe if the governing body of the tribe adopts an ordinance or resolution which is approved by the Chairman.

(2) The Chairman shall approve any tribal ordinance or resolution concerning the conduct, licensing, or regulation of Class II gaming activity on the Indian lands of such tribe if such ordinance or resolution provides that—

(A) except as provided in paragraph (3), the Indian tribe itself shall have the sole proprietary interest and responsibility for the conduct of any gaming activity;

(B) net revenues from any tribal gaming activity are not to be used for purposes other than—

(i) to fund tribal government operations or programs;

(ii) to provide for the general welfare of the Indian tribe and its members;

(iii) to promote tribal economic development;

(iv) to donate to chartiable organizations; or

(v) to help fund operations of local government agencies:

*Provided,* That, if such net revenues are directly or indirectly used for per capita payments to tribal members, those payments are subject to Federal tax.

(C) annual outside indpendent audits of the gaming activity will be obtained by the Indian tribe and made available to the Commission;

(D) all contracts for supplies, services, or concessions for a contract amount in excess of $25,000 annually, except contracts for professional legal or accounting services, relating to such gaming activity shall be subject to such independent audits; and

(E) the construction and maintenance of the gaming facility, and the operation of that gaming activity, is conducted in a manner which adequately protects the environment and the public health and safety.

(3) A tribal ordinance or resolution may provide for the licensing or regulation of Class II gaming activities owned by individuals or entities other than the Indian tribe, except that the tribal licensing requirements shall be at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which such tribe is located. No individual or entity, other than the tribe, shall be eligible to receive a tribal license to own a Class II gaming activity within the tribe's jurisdiction if such individual or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

(4) Not later than one hundred and sixty days after the submission of any tribal gaming ordinance or resolution, the Chairman shall approve such ordinance or resolution if it meets the requirements of this subsection. Any such ordinance or resolution not acted upon at the end of that one hundred and sixty day period shall be deemed to have been approved by the Chairman.

SEC. 12. (a) Subject to the approval of the Chairman, an Indian tribe may enter into a management contract for the operation and management of a Class II gaming activity, except that, before approving such contract, the Chairman shall require and obtain the following information:

(1) the name, address, and other additional pertinent background information on each person or entity (including individuals comprising such entity) having a financial interest in, or management responsibility for, such contract, or, in the case of a corporation, those individuals who serve on the Board of Directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 per centum or more of its issued and outstanding stock;

(2) a description of any previous experience which each person listed pursuant to paragraph (1) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had contact relating to gaming; and

(3) a complete financial statement of each person listed pursuant to paragraph (1).

(b) Any management contract entered into pursuant to this section shall specifically provide—

(1) that adequate accounting procedures are maintained and that verifiable financial reports are prepared by or provided to the tribal governing body on a monthly basis;

(2) that appropriate tribal officials shall have reasonable access to the daily operations of the gaming activity and shall have the right to verify the daily income made from any such tribal gaming activity;

(3) for a minimum guaranteed payment to the Indian tribe that has preference over the retirement of development and construction costs;

(4) for an agreed ceiling for the repayment of development and construction costs;

(5) that the term of the contract shall not exceed five years; and

(6) for grounds and mechanisms for terminating such contract: Provided, That contract termination shall not require the approval of the Commission.

(c) The Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity if he determines that such percentage fee is reasonable in light of surrounding circumstances, but in no event shall such fee exceed 40 per centum of the net revenues.

(d) Not later than one hundred and twenty days after the submission of a contract, the Chairman shall approve or disapprove such contract on its merits. Any such contract not acted upon at the end of such time shall be deemed to have been approved by the Chairman.

(e) The Chairman shall not approve any contract where he determines that:

(1) any person listed pursuant to paragraph (a)(1) of this section—

(A) is an elected member of the governing body of the Indian tribe which is the party to the management contract;

(B) has been or subsequently is convicted of any felony or gaming offense;

(C) has knowingly and willfully provided materially important false statements or information to the Commission or the tribe pursuant to this Act; or

(D) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

(2) the management contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the gaming activity;

(3) the management contractor has deliberately or substantially failed to comply with the terms of the management contract or the tribal gaming ordinance or resolution adopted and approved pursuant to this Act, or

(4) a trustee exercising the skill and diligence that a trustee is commonly held to would not approve the contract.

(f) The Chairman, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if he subsequently determines that any of the provisions of this section have been violated.

(g) No management contract for the operation and management of a Class II gaming activity shall transfer or, in any other manner, convey any interest in land or other real property unless clearly specified in writing in said contract.

SEC. 13. (a) As soon as practicable after the organization of the Commission, the Chairman shall notify each Indian tribe or management contractor who, prior to the enactment of this Act, adopted an ordinance or resolution authorizing Class II gaming or entered into a management contract, that such ordinance, resolution, or contract must be submitted for his review within sixty days of such notification.

(b)(1) Within ninety days after the submission of an ordinance or resolution authorizing Class II gaming pursuant to subsection (a), the Chairman shall review such ordinance to determine if it conforms to the requirements of section 11(b) of this Act.

(2) If he determines that such ordinance or resolution conforms to section 11(b), he shall approve it.

(3) If he determines that such ordinance or resolution does not conform to the requirements of section 11(b), he shall provide written notification of necessary modifications to the Indian tribe which shall have not more than one hundred and twenty days to come into compliance.

(c)(1) Within one hundred and eighty days after the submission of a management contract pursuant to subsection (a), the Chairman shall subject such contract to the requirements and process of section 12 of this Act.

(2) If he determines, at the end of such period, that such contract and the management contractor meet the requirements of section 12, he shall approve it.

(3) If he determines, at the end of such period, that such contract and the management contractor do not meet the requirements of section 12, he shall provide written notification to the parties to such contract of modifications necessary to come into compliance and the parties shall have not more than one hundred and twenty days to come into compliance.

(4) Where a management contract submitted pursuant to subsection (a) has been previously approved by the Secretary or his representative, said contract shall be deemed in compliance hereof and no further action shall be required.

SEC. 14. (a)(1) The Commission shall have authority to authorize the Chairman to levy and collect appropriate civil fines, not to exceed $10,000 per violation, against an Indian gaming activity or a management contractor engaged in gaming activities regulated by this Act or by regulations adopted by the Commission pursuant to this Act.

(2) The Commission shall, by regulation, provide an opportunity for an appeal and hearing before the Commission on fines levied and collected by the Chairman.

(b)(1) The Chairman shall have power to order temporary closure of Indian gaming activities for substantial violation of the provisions of this Act or regulations adopted by the Commission pursuant to this Act.

(2) Not later than thirty days after the issuance by the Chairman of an order of temporary closure, the Indian tribe or management contractor involved shall have a right to a hearing before the Commission to determine whether such order should be made permanent or dissolved. The Commission may, by a vote of not less than five of its members, order a permanent closure of the gaming operation after such hearing.

(c) A decision of the Commission to give final approval of a fine levied by the Chairman or to order a permanent closure pursuant to this section shall be appealable to the appropriate Federal district court pursuant

to the Administrative Procedures Act, title 5, United States Code.

SEC. 15. (a)(1) The Commission may authorize the Chairman to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter which the Commission is empowered to investigate by this Act.

(2) Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(3) If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may, upon application of the Commission, order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(4) The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(5) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(b) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to a subpoena, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forefeiture by reason of any transaction, matter, or thing commencing which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committted in so testifying.

SEC. 16. (a) Except as provided in subsection (b), the Commission shall preserve any and all information received pursuant to this Act as confidential pursuant to the provisions of paragraphs (4) and (7) of section 552(b) of title 5, United States Code.

(b) The Commission may, when such information indicates a violation of Federal, State, or tribal criminal statutes or ordinances, provide such information to the appropriate law enforcement officials.

(c) The Attorney General of the United States is authorized to investigate activities associated with gaming authorized by this Act which may be a violation of Federal law, including but not limited to the Major Crimes Act (18 U.S.C. 1153), the Assimilative Crimes Act (18 U.S.C. 13), and 18 U.S.C. 1163. The Attorney General is authorized to enforce such laws, or assist in the enforcement of such laws, upon evidence of violation as a matter of Federal law, or upon the referral of information by the Commission pursuant to section 16(b) of this Act.

SEC. 17. (a)(1) Not less than three-quarters of the annual budget of the Commission shall be derived from an assessment of not to exceed 2½ per centum of the gross revenues from each Indian gaming activity regulated pursuant to this Act.

(2) The Commission, by a vote of not less than five of its members, shall annually adopt the rate of assessment authorized by this section which shall be uniformly applied to all gaming activities and which shall be payable on a quarterly basis.

(3) Failure to pay the assessment shall, subject to the regulations of the Commission, be grounds for revocation of any approval or license of the Commission required under this Act for the operation of tribal gaming.

(4) To the extent that funds derived from such assessments are not expended or committed at the end of the budget year, such surplus funds shall be credited to each gaming activity on a pro rata basis against the assessment for the succeeding year.

(5) For purposes of this section, gross revenues shall constitute the total wagered monies less any amounts paid out as prizes or paid for prizes awarded.

(b)(1) The Commission, in coordination with the Secretary and in conjunction with the fiscal cycle of the United States, shall adopt an annual budget for the expenses and operation of the Commission.

(2) The budget of the Commission may include a request for appropriations, as authorized by section 18, in an amount not to exceed one-third the amount of funds derived from assessments authorized by subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made.

(3) The request for appropriations pursuant to section 16 shall be subject to the approval of the Secretary and shall be included as a part of the budget request of the Department of the Interior.

SEC. 18. (a) Subject to the provisions of section 17, there is hereby authorized to be appropriated such sums as may be necessary for the operation of the Commission.

(b) Notwithstanding the provisions of section 17, there is hereby authorized to be appropriated not to exceed $2,000,000 to fund the operation of the Commission for the first fiscal year after the date of enactment of this Act.

SEC. 19. For the purposes of this Act—

(1) "Attorney General" means the Attorney General of the United States;

(2) "Commission" means the National Indian Gaming Commission established pursuant to section 5 of this Act;

(3) "Indian lands" means—

(i) all lands within the limits of any Indian reservation; and

(ii) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or which is held by any Indian tribe or individual subject to a restriction by the United States against alienation over which an Indian tribe exercises governmental power;

(4) "Indian Tribe" means any Indian tribe, band, nation, or other organized group or community of Indians which is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians and is recognized as possessing powers of self-government;

(5) "gaming" means to deal, operate, carry on, conduct, or maintain for play any banking or percentage game of chance played for money, property, credit, or any representative value, and shall consist of—

(A) "Class I gaming" which shall include social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of or in connection with tribal ceremonies or celebrations;

(B) "Class II gaming" which shall include the game of chance commonly known as bingo or lotto and which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, the holder covering such numbers or designations as objects similarly numbered or designated, are drawn or electronically determined from a receptacle and the game being won by the person first covering a previousy designated arrangement of numbers or designations on such card, and shall also include pull-tabs, punch boards, and other games similar to bingo; and

(C) "Class III gaming" which shall include all other forms of gaming not defined in subparagraphs (A) and (B) of this paragraph.

(6) "net revenues" means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses including management fees; and

(7) "Secretary" means the Secretary of the Interior.

SEC. 20. Consistent with the requirements of this Act, section 1307 of title 18, United States Code, shall apply to any gaming activity conducted by a tribe pursuant to this Act.

SEC. 21. (a) Not later than two years after the date of enactment of this Act, the Comptroller General shall conduct a study of Class III gaming on Indian lands and submit a report of that study to Congress. The study shall include—

(1) an assessment of whether the tribes, the states, or the United States is the best regulator of Class III gaming on Indian lands;

(2) an assessment of the benefits and problems which could arise if Class III gaming on Indian lands is regulated by the tribes, the states, or the United States;

(3) an analysis of the activities of the Commission, including whether the personnel and budget of the Commission is adequate to regulate Class II gaming under this Act; and

(4) an analysis of the regulatory alternatives which the Comptroller General determines are appropriate for regulating Class III gaming on Indian lands, including a recommendation of the best alternative, its costs, and the number of personnel required for its implementation.

(b) In conducting the study under subsection (a), the Comptroller General shall consult with the Indian tribes, appropriate agencies of the United States, each State gaming control board or regulatory body, and the chief law enforcement official and other law enforcement authorities of each of the several States.

SEC. 21. In the event that any section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act shall continue in full force and effect.

The SPEAKER pro tempore. Is a second demanded?

Mr. STRANG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Colorado [Mr.

STRANG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself 5 minutes.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1920, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, H.R. 1920, the Indian Gaming Regulatory Act, is designed to deal with problems arising out of the growing phenomenon of gambling enterprises on Indian reservations. In general, H.R. 1920 meets the various concerns in this area by establishing Federal standards or regulations for gaming activities on Indian reservations.

It should clearly be understood that H.R. 1920 does not make gambling on Indian reservations legal. The Federal courts have held that gambling on Indian reservations is legal and not subject to State licensing and regulations where the State makes that gambling activity legal under its laws. H.R. 1920 accepts the state of the law.

What it does is to impose Federal standards on those activities which are otherwise determined to be legal under existing Federal-Indian law.

Mr. Speaker, for some tribes, gaming enterprises has become an important source of tribal revenue. These commercial enterprises have provided employment for the Indian people. In some cases, tribal unemployment has been reduced from 50 percent or more to less than 10 percent. Tribes are using revenue from gaming for health clinics, roads, scholarships, and numerous other economic, governmental, and social efforts.

We should not be surprised that they have done so. Federal programs to aid Indian tribes and people have never been adequate to meet the need. With the severe budget cuts of the last 5 years and with the further threat of Gramm-Rudman cuts, the economic and social life on Indian reservations have been devastated. Just as there are many States turning to lotteries and other gaming activity to fill the gap left by Federal cutbacks, so too are the Indian tribes.

The bill, as reported from the committee, establishes a National Indian Gaming Commission to implement and administer the provisions of the act. Gaming is divided into three classes: class I defined as social and traditional Indian gaming which is left to the tribes exclusively; class II which is defined as bingo and related games which must be authorized by a tribal ordinance subject to the approval of the Chairman of the Commission; and class III defined as all other forms of gambling.

Under the bill, class III not only must meet the standards applicable to class II, but would be subject to a regulatory scheme adopted by the Commission identical to that of the State involved.

The treatment of class III gaming became a matter of dispute in the committee. This matter has been resolved in the bill which is under consideration today. A compromise was developed by Congressman RICHARDSON and Congressman COELHO which I believe is a satisfactory resolution of the problem. I want to commend these two gentlemen for their understanding and hard work in crafting a resolution to the impasse which had developed.

Under the compromise, all class III provisions of the bill would be dropped. A 4-year moratorium would be placed on any further class III gaming on Indian reservations. Within 2 years after enactment, GAO would be required to study the issue of class III regulations and submit a report to the Congress. Congress would have 2 years within which to enact further legislation. At the end of the 4-year period, if Congress had not made other disposition, class III gaming on Indian reservations would revert to the status quo ante and would be governed by whatever existing law provided. The compromise also provides that class III operations, if otherwise legal, existing on January 1, 1986, would be grandfathered in under certain circumstances.

Mr. Speaker, with the Coelho-Richardson compromise, I believe H.R. 1920 is acceptable legislation and deserves the support of the House and I urge its passage.

Mr. STRANG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1920, the Indian Gaming Regulatory Act. H.R. 1920 represents a compromise of the various interests surrounding Indian bingo. It balances the concerns of the State for proper supervision of the games to prevent criminal activity against the rights of sovereign tribes to regulate activities on their Indian reservation.

The law is generally settled in the courts with regard to Indian bingo—that of the civil/regulatory versus criminal/prohibitory reasoning used by the courts. If a State regulates the activity and that activity has not been preempted by Federal law, a tribe may also regulate the activity without regard to State law. However, if an activity is strictly and criminally prohibited by the State, the tribe within that State may not regulate that activity.

The major issues during the committee markup did not pertain to Indian bingo, but instead concerned what we refer to as class III gaming—parimutuels, lotteries, card rooms and casinos. The courts have not definitively ruled on these forms of gaming. The administration and the States have argued that class III gaming should be regulated by the States—the tribes and those familiar with the history of tribal/State relations argued for a Federal Commission to oversee the gaming activities, regardless of the form.

The compromise in H.R. 1920 in regard to class III activities demonstrates that we in Congress still need further information and study before we can define the law.

Under the compromise, Congress declares a 4-year moratorium on class III gaming in Indian country and directs that the General Accounting Office [GAO] conduct a study of the issue and report back to Congress within 2 years. States and tribes will be important participants of this study.

The passage of H.R. 1920 will provide those tribes conducting bingo and like games the assurance that their right to regulate activity on Indian lands is confirmed; and will provide the States the assurance that their concerns about criminal activity will be fully considered.

Congress should intrude upon sovereign rights only when it is absolutely necessary, especially, in the context of deviating from the government-to-government relationship between the United States and tribes. I believe the compromise to H.R. 1920 represents a true effort on Congress' part to fully examine the issues surrounding class III gaming before rashly acting.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise today in support of H.R. 1920, the Indian Gaming Regulatory Act, as amended. This bill, as amended, represents a successful compromise between two extreme positions on the regulation of Indian gaming. I am proud to have been able to work at bridging the differences, in order to reach a compromise which is acceptable to all of the people involved in this issue.

My personal preference, however, would place all class III operations or high-stakes gambling under State control, with bingo supervised by the Federal Commission. While the compromise is not perfect, it is better than the alternative, and that is, the status quo. The confusion and uncertainty resulting from the status quo is the worst scenario.

I regret that the makeup of the Commission could not be changed to give a more Indian and non-Indian balanced membership.

Interest in Indian gaming has been growing over the past few years. As Federal resources are declining, Indian tribes are searching for ways to replace Federal sources of funding in order to meet their needs. In New Mexico, the Sandia, Acoma, and Tesueque Pueblos have turned to bingo as a source of tribal revenue to support their tribal governments and tribal programs. On the Sandia Pueblo, for example, "Sandia Indian bingo" has been responsible for reducing reservation unemployment to about 3 percent.

Congressional debate on Indian gaming started in order to ensure that organized crime was not able to infiltrate Indian gaming operations. Other concerns have since entered the debate. It is necessary, for example, to ensure the general public that they are participating in a fair and honest game. And, there is also a movement to see that State interests are accommodated by requiring tribes to comply with existing State gaming laws in the States where they are located. This issue is further complicated by issues of tribal sovereignty and Federal trust responsiblity. The bill as amended, before us, is a compromise which allows for the resolution of regulatory disputes over class I and class II gaming. It also provides for further consideration of all of the complex problems associated with the regulation of class III gaming, prior to further congressional action.

H.R. 1920 will establish an eight-member National Indian Gaming Commission to regulate and monitor gaming operations on Indian reservations. The Commission shall, among its other duties, approve any management contract entered into by the tribes for gaming operations. It may also inspect and examine all premises where Indian gaming is conducted, as well as inspect, examine and audit all papers, books and records of the gaming operations. Seventy-five percent of the funds for the Commission will come from assessments on Indian gaming activities—the remaining 25 percent will come from congressional appropriations.

The bill establishes three classes of gaming activity:

Class I—defined as social or traditional Indian gaming, which would be left solely to the jurisdiction of the tribes.

Class II—defined as bingo and similarly related games, which would be required to meet standards set by the Commission; and

Class III—defined as all other forms of gaming, including casinos and horse and dog racing.

Under this bill as amended, class III gaming would be placed under a 4-year moratorium. No new class III gaming would be allowed during this 4-year period—the Secretary of the Interior is directed to identify and prepare a list of each separate class III gaming activity actually operated on Indian lands as of January 1, 1986. No further class III gaming operations will be allowed, and the existing operations will not be permitted to expand to other forms of gaming. Existing operations will be subject to a regulatory scheme substantially equivalent to those of the State within whose boundaries such gaming occurs.

During the 4-year moratorium, the Comptroller General would conduct a study of class III gaming on Indian lands, and submit that study to Congress. This study will include an assessment of whether the tribes, the States, or the United States is the best regulator of class III gaming on Indian lands; an assessment of the benefits and problems arising out of regulation by each of these three entities; an analysis of the activities of the Commission and, an analysis of the regulatory alternatives which the Comptroller General determines are appropriate for regulating class III gaming on Indian lands, including a recommendation of the best alternative. This study would then give the Congress some concrete information upon which to base further regulatory action.

I urge my colleagues to support this bill. It is the outcome of a complex set of negotiations aimed at this kind of compromise. I believe that H.R. 1920, as amended, addresses many of the concerns inherent in discussions of Indian gaming. It sets up a Commission which will allow tribes to operate class II gaming operations, such as bingo, free of organized crime. It ensures that the general public participating in class II games are participating in fair and honest activities. It also suspends further regulatory action on class III gaming until the Congress has had an opportunity to seriously consider all of the aspects of this kind of gaming activity. H.R. 1920 does not allow the tribes to enter into gaming operations with no regard to the concerns of local communities and States in which their reservations are located. I firmly believe that H.R. 1920, as amended, presents a balanced and fair approach to the complex problems of Indian gaming, and I urge my colleagues to vote for it.

Analysis of Indian gambling bills:

Why the bill is needed:

A number of Indian tribes have become engaged in or have licensed gaming activities on Indian lands as a means of generating tribal governmental revenue.

Indian tribes have the exclusive right to regulate gaming activities on Indian lands which is not specifically prohibited by Federal law and which is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.

There are no existing statutes which require approval of management contracts dealing with Indian gaming. So that even though Interior Department recently started reviewing bingo management contracts there is no existing statute which requires their approval.

Existing Federal law does not provide clear standards or regulations necessary to insure the orderly conduct of gaming activities on Indian lands.

A principal goal of Federal Indian policy is to promote tribal economic development, tribal self sufficiency and a strong tribal government. The tribal operation and licensing of gaming activities is a legitimate means of generating revenues.

The establishment of Federal standards for gaming activities on Indian lands and the establishment of a National Indian Gaming Commission are necessary to: First, accommodate State interests in requiring the tribes by law to comply with existing State gaming laws in which they are located; second, protect the tribes against the possible infiltration of organized crime; and third, ensure the general public that they are participating in a fair and honest game.

Congress needs to take a stand to clarify all the confusion and uncertainty that surrounds this issue. In aiming at a satisfactory solution, it is clear that one must protect the Federal Indian relationship as well as State prerogatives—H.R. 1920 goes a long way to keep those assurances in mind. Including the development and resolution of what to do with class III gaming—which includes all forms of gaming other than bingo or ceremonial types.

What the bill does:

Establishes an eigth-member National Indian Gaming Commission to regulate and monitor gaming operations on Indian reservations.

Eight members of the Commission: Chairman who shall serve full time, shall be appointed by the Secretary of the Interior. A member to be selected by the Attorney General, and appointed by the Secretary. Five members, at least three of whom shall be enrolled members of federally recognized tribes, to be appointed by the Secretary from list not less than 10 nor more than 20 candidates submitted and approved by a majority of the tribes then engaged in or regulating gaming activities. One member appointed by the Secretary who shall represent the interests of the States.

Duties of the Commission:

Among other duties, it shall approve any management contract entered into by the tribes for gaming operations.

May inspect and examine all premises where Indian gaming is conducted.

May inspect, examine and audit all papers, books, and records of the gaming operations.

This bill also establishes three classes of gaming activities:

Definition of gaming activities:

Class I—social or traditional Indian gaming, which would be left solely to the jurisdiction of the tribes.

Class II—bingo and similarly related games, which would be required to meet standards set by the Commission; and

Class III—Defined as all other forms of gaming, including casinos and horse and dog racing.

What is the compromise on class III gaming:

Class III gaming would be placed under a 4-year moratorium. No new class III gaming allowed during this 4-year period—the Secretary of the Interior is directed to identify and prepare a list of each separate class III gaming activity actually operated on Indian lands as of January 1, 1986. No further class III gaming operations allowed, and existing operations will not be permitted to expand to other forms of gaming. Existing operations will be subject to regulation substantially equivalent to those of the State within whose boundaries such gaming occurs.

During 4-year moratorium: Comptroller General [GAO] would conduct a study of class III gaming on Indian lands, and submit that report to Congress.

That report will include:

First, an assessment of whether the tribes, the States, or the Federal Government is the best regulator of class III gaming on Indian lands.

Second, an assessment of the benefits and problems which could arise if class III gaming on Indian lands is regulated by the tribes, the States, or the Federal Government

Third, an analysis of the activities of the National Indian Gaming Commission established by this bill—including whether the personnel and budget of the Commission is adequate to regulate class II gaming under this act.

Fourth, an analysis of the regulatory alternatives which the Comptroller General determines are appropriate for regulating class III gaming on Indian lands—including a recommendation of the best alternative—its costs—and the number of people required to implement it.

In writing the study on how best to regulate class III gaming activities the Comptroller General shall:

First, consult with Indian tribes;

Second, appropriate agencies of the United States;

Third, each State gaming control board or regulatory body; and

Fourth, the chief law enforcement official and other law enforcement authorities of each of the several States.

Funds for Commission:

Seventy-five percent will come from assessments on Indian gaming activities.

Twenty-five percent will come from congressional appropriations.

Indian assessment:

Not more than 2½ percent of the gross revenues from each Indian gaming activity. The Commission, by a vote of not less than five of its members, shall annually adopt the rate of assessment, which shall be uniformly applied to all gaming activities, and which shall be payable on a quarterly basis.

The bill authorizes $2 million for first year of the Commission's operation, $500,000 to come from appropriations. Thereafter, the bill authorizes such sums as may be necessary to fund 25 percent of the cost of the Commission.

Mr. STRANG. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, the bill before us, H.R. 1920, is a compromise. It places a 4-year moratorium on class III gaming on Indian reservations while the General Accounting Office conducts a study to determine whether class III gaming can legitimately be regulated by a seven-member Indian gaming commission throughout the 50 States. Class III gaming includes all forms of gaming except bingo.

For most of you, this bill is not important and will not affect your State. Only two States include casino gaming—New Jersey and Nevada. Nevada is the only State with casino gaming and Indian reservations. Gaming is Nevada's No. 1 industry yielding approximately $148 million in annual revenues or 51 percent of the State's total revenues. Nevada's economy has the highest tourism dependency of any State, and more than 80 percent of Nevada's tourist spending is attributable to the presence of gaming. Nevada's gaming industry is strictly regulated by the State gaming commission, making Nevada gaming the most closely scrutinized private industry in the country.

My point, Mr. Speaker, is that Nevada is unique. We depend on the gaming industry as a major contributor to our economy, and we have several Indian reservations which should have the opportunity to better their economic status through commercial gaming. However, I am a firm believer that any gaming activity by anyone, including Indians, should be subject to strict licensing and regulatory procedures by the State where the gaming activity is taking place. I am strongly against Federal involvement in State-operated and State-controlled gambling industries.

Just to give my colleagues an idea of what goes into regulating gaming activities in Nevada, I would like to share some Nevada statistics with you. The budget for the Nevada State Gaming Control Board is approximately $13 million. This does not include investigative costs which are paid by the applicant for a license. The Nevada Gaming Control Board employs 352 people with 74 for investigations, 99 for audit, and 89 for enforcement. This is still not enough to patrol every casino. It is my understanding that the New Jersey budget is four times greater than Nevada's and it only has 10 casinos.

My point, Mr. Speaker, is: How can an Indian gaming commission made up of seven people regulate class III gaming activities on Indian reservations throughout the United States? Who will pay for investigative costs, auditing, and enforcement? How much will it cost to regulate and patrol these gaming establishments? Will the commission have the manpower to monitor potentially 50 different sets of regulations for each type of gaming activity? These questions need to be answered.

That is why I am reluctantly supporting this compromise bill. The General Accounting Office will have 2 years to answer these questions and determine whether a seven-member commission can regulate class III gaming. The GAO will be able to consult with States that have some form of class III gaming and the GAO will be able to consult with States that have gaming control boards to determine what exactly is involved in regulating class III gaming. After the study is completed, Congress will then have to decide if class III gaming on Indian reservations should be regulated by strict State regulations where these regulations are already in place or by a 7-member Federal commission who will have to adopt new regulations for class III gaming in potentially 50 different States.

It is my hope that the GAO will confirm my belief: Class III gaming, especially casino gaming, must be strictly regulated by the State.

□ 1305

Mr. GONZALEZ. Mr. Speaker, will the gentlewoman yield for a question?

Mrs. VUCANOVICH. I am very happy to yield to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I am somewhat confused. Maybe it is because of my ignorance as to the definition of class III gambling or gaming. Did I understand the gentlewoman to say that bingo is exempted?

Mrs. VUCANOVICH. Mr. Speaker, bingo is not considered class III gaming.

Mr. GONZALEZ. So that under this legislation it is exempted from regulation?

Mrs. VUCANOVICH. Yes, it is.

Mr. GONZALEZ. I see. Over in my part of the woods, down in Texas, we do not have reservations, but they have them up in Oklahoma. They have been giving some mighty big prizes away in the bingo games in the Oklahoma Indian reservations. I had the great risk of my wife being invited by a fellow parishioner to go up there where the winnings would be big. I did not know if this was going to affect that kind of activity or not.

Mrs. VUCANOVICH. It will not affect bingo.

Mr. GONZALEZ. Apparently the Oklahoma reservations have about a thousand-percent bigger winnings than the parish bingo games over in my district.

Mrs. VUCANOVICH. Well, I think it is a concern, and I think that perhaps the study that GAO will do will maybe turn up some information about that.

Mr. GONZALEZ. I thank the gentlewoman.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I want to commend the gentleman from Arizona [Mr. UDALL] for bringing up this bill. There are no Indian reservations in Ohio, and yet this bill is of interest to every single Member from every single State in the Union.

I discovered somewhat to my surprise a few years ago that it is possible for an Indian tribe to buy land in another State far from their normal geographic location and establish a bingo operation on that land. It can be very small, but it is still considered a reservation that is held in trust for the tribe. It is exempt under present law from local ordinances and State laws that regulate gambling throughout the rest of the State or in the particular local jurisdiction.

So, having found that, it seemed to me that this bill presented a very excellent opportunity to make it clear that on that type of operation where the Indian land is remote or separate from an actual Indian reservation, it cannot supersede State and local law. Accordingly, the bill provides that class II and class III gaming shall be unlawful on lands acquired by the Secretary after December 4, 1985, if the lands are located outside the boundaries of such tribe's reservation, but that this prohibition shall not apply if the Governor of the State, the State legislature, and the governing bodies of the county and municipality in which such lands are located approve the operation. So this retains State and local control over nonreservation Indian gambling, and I think that is very important to every single State, not only because it is important from the standpoint of preserving the opportunity of a State to regulate gambling activities within its own borders on lands which are not on an Indian reservation, but it is important because certain elements that are undesirable otherwise could take over and you would in fact have a gambling operation where Indians were getting some benefits, but since there was no State or Federal regulation, there could be organized crime or some other group skimming off the majority of the benefits, and also bringing undesirable activities into your State.

This bill is extremely important to every single State in the Union that feels that it is desirable to maintain State and local control over gambling operations. I again want to commend the chairman and the other members of the committee for the hard work they have done on this legislation.

Mr. UDALL. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I begin by thanking and commending my colleague, the very distinguished and able chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL], and all the members of the committee that have worked to bring us this compromise legislation. I think it is very necessary and important legislation.

Accordingly, therefore, Mr. Speaker, today I rise in support of H.R. 1920, the Indian Gaming Control Act, and to address two specific matters regarding the legislation.

To begin, this Member wishes to bring to the attention of the House a provision in the legislation that came about because of a plan developed by an Indian tribe in my district in Nebraska. Briefly, this tribe intended to purchase a piece of property some 75 miles from the reservation, within the city limits of a medium-size town also in my district. The tribe then intended to request that the Secretary of the Interior grant this 22-acre parcel trust status, for the purpose of establishing an Indian bingo operation.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to my colleague, the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, in the case that brought this to my attention, which was a proposal to establish a similar operation in the county adjoining my own, the land was 1,200 miles from the reservation of the tribe, and the acreage that they were going to acquire was only 8 acres and was purely for a gambling operation, and that really got my attention in a hurry.

□ 1315

Mr. BEREUTER. Mr. Speaker, I thank my colleague for that example. I became aware of that example, too, and I believe it set the long-distance record. We are indeed a creative people—all of us.

This Member was very opposed to such a plan to create lands by acquisition strictly for the purpose of gambling activities. While this Member recognizes that economic development is one of the reasons used to justify the addition of new trust lands by the Secretary of the Interior, I most emphatically believe that gambling should not be considered an appropriate activity to justify an extension of trust status to land outside the reservation area. Not only would such an extension have to be considered bad public policy, but the potential law enforcement problems and demonstrated opposition were both considerable. Therefore, this Member introduced legislation which was then considered by the committee during their hearings on Indian gaming. My legislation prohibits any tribe from acquiring land that is not contiguous to the reservation for the specific purpose of establishing a gaming operation. Our distinguished colleague from Ohio, Mr. SEIBERLING, offered the provision in committee, and it is included in the legislation before us today. It is an important protection, this Member believes, for the practice would create practical problems that could not, in the long run, be easily addressed. This Member wishes to make it clear, however, that he does not oppose the creation of gaming operations on the reservation under proper regulations and management.

This raises another matter, Mr. Speaker, which I will take only a minute to discuss. While this Member recognizes that there is a legitimate need to address the issues associated with nonregulated gaming activities, including those that are operated by Indian business persons on the reservation, there are some concerns about tribal sovereignty that must be addressed.

Mr. Speaker, while this Member does not believe that the legislation which will emerge from the other body on Indian gaming will necessarily be less restrictive than on legitimate matters of Indian sovereignty, it is my hope that there will be an opportunity in the conference to look again at the impact of House actions on the rights of tribal governments.

Thank you.

Our distinguished colleague, the gentleman from Ohio [Mr. SEIBERLING] offered the provision in the committee. It is included here today.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. COELHO].

Mr. COELHO. Mr. Speaker, I thank the distinguished chairman of the committee for yielding time to me.

Mr. Speaker, I am pleased to be among those who are supporting the

bill that is before the House today. We have come a long way from the bill that was originally reported from the House Interior Committee last December and I appreciate the efforts made by the chairman of the committee to work with me in resolving my concerns.

There is no doubt that something needs to be done to regulate gaming activities that take place on Indian lands. To allow unrestricted Indian gambling to continue would be an injustice to the tribes, to the States, and to the citizens of this Nation. We have to balance competing rights, duties, and responsibilities, and come up with a fair solution which protects everyone.

I believe this bill accomplishes the objective of providing some regulation for bingo, which is now taking place on Indian lands. It also gives us an opportunity to look at the proper method for regulating other forms of gambling, which for the most part are not found on Indian lands today.

When H.R. 1920 was reported from the Interior Committee, all class III gaming would have been under the regulation of the National Indian Gaming Commission. I had serious doubts about the ability of the Commission to regulate class III gaming with the current budget situation, and with the potential size of the job facing them. I felt the States would have been the more appropriate entity to regulate any class III gaming operations since they are doing so currently in each State.

However, in an effort to give everyone additional time to explore the issue of regulating class III operations, I offered a compromise to place a 4-year moratorium on class III gaming on Indian lands. During the moratorium, a study will be undertaken by the General Accounting Office to determine who might be the best regulator of class III gaming—the tribes, the States, or the United States.

The study will consider the benefits and problems from such regulation, and will also look at how successful the Commission is in regulating class II bingo. Additionally, we have asked for possible alternatives that exist for regulating class III operations, and a recommendation on the best alternative including the cost involved, and the staffing requirements.

In doing the study, GAO will be required to consult with the tribes, appropriate Federal agencies, State gaming control boards and regulatory bodies, and appropriate law enforcement officials. The study must be submitted to Congress within 2 years of the date of enactment, which will permit 2 additional years for Congress to take action on the recommendations.

Because there are a few existing games on Indian lands that could be considered class III operations, we have agreed to grandfather these operations in solely for the period of the moratorium. During the period of the moratorium, these operations will be subject to regulation by the national commission and will be forbidden from expanding into other forms of class III gaming than those they were operating as of January 1 this year. I will engage the chairman of the full committee in a colloquy to ensure that everyone understands the intent of the grandfathering provisions.

This compromise on class III gaming has been endorsed by the American Greyhound Track Operators Association as well as the American Horse Council.

I would like to express my appreciation to the chairman of the full Interior Committee for his efforts in forging a workable compromise. I also would like to thank the gentlewoman from Nevada [Mrs. VUCANOVICH]; the gentleman from New Mexico [Mr. RICHARDSON]; and the chairman of the Rules Committee, Mr. PEPPER, for their support in putting together a bill that would be acceptable to the House.

I would now like to ask a couple of questions of the chairman of the committee.

Mr. UDALL. I would be pleased to answer.

Mr. COELHO. Mr. Speaker, under the compromise that I and the gentleman from Arizona worked out on class III gaming, class III gaming in existence on January 1, 1986, would be grandfathered in under the 4-year moratorium if otherwise legal under existing law. Is it the understanding of the gentleman from Arizona that the protection afforded by the "grandfather" provision would not be available to a class III activity in operation prior to January 1, 1986, if that activity was subsequently determined by a final decision of a court to be illegal?

Mr. UDALL. If the gentleman will yield, that is my understanding.

Mr. COELHO. The compromise also contains language which provides that any class III activity which is grandfathered in retains that protection only to the extent that the activity keeps within the nature and scope that it had prior to January 1, 1986. It is my understanding that, under this language, any grandfathered activity will be limited to the number of separate operations which were in existence on January 1, 1986, and only that kind of gaming which was in existence on that date. In addition, this language would prevent any attempt to convert a class I activity in existence before January 1, 1986 to a class III operation. Is that the understanding of the gentleman from Arizona?

Mr. UDALL. If the gentleman will yield, that is my understanding.

Mr. STRANG. Mr. Speaker, I am pleased to yield 4 minutes to my colleague, the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Speaker, over the last several months, I have had a particular interest in the subject of Indian gambling. It was initially brought to my attention, sparked by my concern, when some of my constituents expressed their concern about the construction and operation of a high-stakes bingo parlor on a small Indian rancheria in northern California. The opposition ranged from traffic and sewage concerns—that is, the application of county ordinances, which were created by the construction of this bingo hall, some 1,200 seats in size—to claims of unfair competition with charitable organizations, and to one Indian woman's opposition to the "white man's" intrusion, as she described it, onto the reservation for profit.

As I investigated these concerns, however, I realized that they were but the tip of the iceberg and that nationwide there have been numerous efforts, some successful, by organized crime to gain a foothold in the potential lucrative Indian gaming business. Above and beyond my strong belief that gambling is not an appropriate revenue-raising activity, as it preys on those least able to afford it and it does give rise to the false impression, and indeed the immoral idea, that wealth can somehow be created without a commensurate degree of productive effort, I am persuaded that neither the Bureau of Indian Affairs nor Indian tribes themselves are able to adequately police the gaming operations and to prevent the subtle infiltration of organized crime. As the gentlewoman from Nevada has testified and indeed it came to light during the hearings on H.R. 1920, the participation of organized crime in gaming is a very sophisticated business. Nevada alone spends nearly $13 million a year just to enforce, investigate and audit its statewide gaming operations.

The authority to regulate non-Indian gambling is reserved for States, which I believe are best qualified to establish gambling regulations to meet the particular needs of their citizens. It is for this reason that I introduced legislation which would have required Indian tribes conducting gaming to comply with the same regulations that have already been established in the States in which they reside. I believe that particularly in the area of gambling the Federal Government would be wise to defer to the experience and the judgment of the States in which our native Americans live.

It seems to me, Mr. Speaker, that if indeed there is reason to regulate gambling because of the nature of the activity, then there is nonetheless reason to regulate it because it happens to be

conducted by Indians, rather than non-Indian Americans.

Without question, there is no doubt that Indians need an economic boost to their tribal economies and even more desperately need to be independent of Federal subsidies. I applaud the tribes' innovative efforts to do so by way of gambling; however, I cannot support this bill, nor any attempt to give the Federal Government the decisionmaking authority for gambling, which is I believe a major purpose of H.R. 1920. Gambling in Indian country impacts Indians and non-Indians alike. Congress should therefore give the authority to regulate such activity to the division of Government best qualified to do so, and that is each individual State.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. SHUMWAY. If I have time, I am happy to yield.

Mr. SEIBERLING. Mr. Speaker, is the gentleman aware that without legislation at the present time an Indian tribe can buy land in his State or any other State and set up a gambling operation which will be totally exempt from any State or local control?

Mr. SHUMWAY. I am well aware of that problem. I heard the gentleman's testimony regarding that and I did introduce a bill to address that very problem.

I am not happy with the status quo, either, but I simply believe that H.R. 1920 falls short in addressing the entire range of problems, not just that one, but all the problems by the Secretary.

Mr. SEIBERLING. Well, it takes care of all the problems except those of new gambling on Indian reservations, which it seems to me shrinks it down to a very small area indeed. I think on the whole it is a great step forward.

Mr. McCAIN. Mr. Speaker, I rise in support of H.R. 1920, the Indian Gaming Regulatory Act. Since the fifth circuit judicial decision in Seminole versus Butterworth, Indian tribes have engaged in gaming operations, primarily bingo. In Seminole, the court ruled in keeping the general government-to-government relationship between tribes and the Federal Government, that Indian tribes could regulate gaming operations free of State licensing and State regulation. It formulated a civil/regulatory versus criminal/prohibitory reasoning. Simply stated, if a State regulates an activity a sovereign Indian tribe can also regulate that activity; but if the activity is strictly prohibited within the boundaries of the State that prohibition also applies to the Indian tribe.

H.R. 1920 is an honest attempt to join the conflicting interests of the State and the Indian tribes, with a goal of preventing unwanted criminal intrusion into any gaming operation. The Udall substitute before us today adopts a fine line between the conflicting interests in the case of bingo and bingo-type games—class II in the bill. However, because of the controversy surrounding the regulation of class III—parimutuels, lotteries, and so forth, H.R. 1920 now provides for a study of the issue. I believe this is the best compromise that tribes or the States can ask at this time. The GAO study will provide Congress with a fuller understanding of State concerns and of tribal rights. And, the 4-year moratorium of class III gaming in Indian country will help satisfy the Justice Department fears of rampant intrusion on the part of organized crime in Indian games.

I fully agree with the Justice Department concerns, however, I wholeheartedly disagree with their solution. The protections of all citizens must be balanced with tribal sovereign rights. I do not personally believe that gaming is the best economic solution to tribal problems, but in some instances it may be the only one. The protection of all citizens participating in Indian games is a Federal responsibility, that must not be pawned off to the States.

Traditionally, States, and Indian tribes have been adversaries, as our committee hearings clearly demonstrated. State witnesses wanted State jurisdiction, regulation, enforcement, and taxation. However, no State witness testified that the State had a responsibility to Indian tribes for their health, welfare, or economic development. The Justice Department would like to abrogate their responsibility for law enforcement in Indian country and hand it over to the States for class III gaming operations. Logically, it follows that the Justice Department does not believe it has a responsibility in Indian country; which by many reports seems to be the actual case today. Many tribes have complained to me that even when they have caught criminals redhanded, the U.S. attorney has refused to prosecute. I hope that my colleagues will join me in the future in addressing the real issues about law enforcement responsibilities on Indian reservations.

Sovereign Indian tribes currently have the right to regulate activities within their boundaries, irrespective of State regulations except where Congress has expressly granted jurisdiction to the tribes. It is my belief that the GAO study will also reflect this understanding and will be the basis for new legislation 4 years hence. With some reluctance, I urge my colleagues to support the compromise H.R. 1920.

Mr. STRANG. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Bosco). The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 1920, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## AMENDMENTS TO NATIVE AMERICAN PROGRAMS ACT

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3247) to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal years 1987 through 1990, as amended.

The Clerk reads as follows:

H.R. 3247

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Programs Admendments of 1986".

SEC. 2. REVIEW OF APPLICATIONS FOR ASSISTANCE.

The Native American Programs Act of 1974 (42 U.S.C. 2991-2992d) is amended—

(1) in the first sentence of section 803(a) by inserting ", on a single year or multiyear basis," after "financial assistance",

(2) by redesignating sections 813 and 814 as sections 815 and 816, respectively,

(3) by redesignating sections 806 through 812, as sections 807 through 813, respectively, and

(4) by inserting after section 805 the following new section:

"PEER REVIEW OF APPLICATIONS FOR ASSISTANCE

"SEC. 806. (a)(1) The Secretary shall establish a formal peer review process for purposes of evaluating applications for financial assistance under sections 803 and 805 and of determining the relative merits of the projects for which such assistance is requested.

"(2) Members of peer review panels shall be appointed by the Secretary from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Secretary shall give preference to American Indians, Hawaiian Natives, and Alaskan Natives.

"(b) Each peer review panel established under subsection (a)(2) that reviews any application for financial assistance shall—

"(1) determine the merit of each project described in such application;

"(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

"(3) submit to the Secretary a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

"(c) Whenever the Secretary approves an application for financial assistance under section 803 or 805, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the President pro tempore of the Senate written notice—

"(1) identifying such application;

"(2) containing a copy of the list submitted to the Secretary under subsection (b)(3) in which such application is ranked;

"(3) specifying which other applications ranked in such list have been approved by the Secretary under sections 803 and 805; and

"(4) if the Secretary has not approved each application superior in merit, as indicated on such list, to the application with

respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Secretary for—

"(A) approving the application with respect to which such notice is transmitted; and

"(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).".

SEC. 3. PROCEDURAL REQUIREMENTS.

(a) RULE MAKING.—The Native American Programs Act of 1974 (42 U.S.C. 2991-2992d) is amended by inserting after section 813, as so redesignated by section 2, the following new section:

"ADDITIONAL REQUIREMENTS APPLICABLE TO RULE MAKING

"SEC. 814. (a) Notwithstanding subsection (a) of section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.

"(b) The last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (including any general statement of policy) that is—

"(1) proposed under this title;

"(2) applicable to any program, project, or activity authorized by, or carried out under, this title; or

"(3) applicable to the organization, procedure, or practice of an agency (as defined in section 551(1) of title 5, United States Code) and that would affect the administration of this title.

"(c) Notwithstanding section 553(d) of title 5, United States Code, no rule (or general statement of policy) that—

"(1) is issued to carry out this title;

"(2) applies to any program, project, or activity authorized by, or carried out under, this title; or

"(3) is applicable to the organization, procedure, or practice of an agency (as defined in section 551(1) of title 5, United States Code) and that will affect the administration of this title;

may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of title 5, United States Code.

"(d) Each rule to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

"(e) Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule, the Secretary shall issue such rule not later than 180 days after the date of the enactment of such law.

"(f) Whenever an agency publishes in the Federal Register a rule (including a general statement of policy) to which subsection (c) applies, such agency shall transmit a copy of such rule to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

(b) DEFINITION OF RULE.—Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c), as so redesignated by section 2, is amended—

(1) in paragraph (3) by striking out "and" at the end thereof,

(2) by redesignating paragraph (4) as paragraph (5), and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the term 'rule' has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time; and".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 816(a) of the Native American Programs Act of 1974 (42 U.S.C. 2992d(a)), as so redesignated by section 2 of this Act, is amended by striking out "1986" and inserting in lieu thereof "1990".

The SPEAKER pro tempore. Is a second demanded?

Mr. TAUKE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes and the gentleman from Iowa [Mr. TAUKE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume. Throughout its history, the Native American Programs Act has traditionally enjoyed strong support from native Americans, the administration, and from both sides of the aisle here in Congress. It is unique among those programs available to native Americans since it provides grants to Indian tribes and organizations, Native Alaskan villages and corporations, and native Hawaiian communities and organizations to support local strategies aimed at creating social and economic self-sufficiency. No other Federal program provides this type of assistance to all of these native populations. Although modestly funded, this program has produced very positive results in many native communities including:

The creation of thousands of jobs for native Americans;

The initiation or expansion of Indian, Alaskan Native and native Hawaiian businesses;

The strengthening of the governmental functions of many tribes through the enactment of codes and management improvements, and;

The construction or renovation of housing units on reservations and in urban areas.

The bill strengthens the Native American Program in three ways. First, it authorizes the Administrator to award multiyear grants. Second, it reinforces and strengthens the current application review process. Finally, it enhances native American input into decisions affecting their projects. This program has long enjoyed strong bipartisan support within the Congress. The administration also supports reauthorization of this program and I urge its immediate adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3247 reauthorizes the Native American Programs Act for 4 years, through fiscal year 1990. I support this reauthorization, and I applaud the work of the chairman of the Subcommittee on Human Resources, the gentleman from Michigan, for his efforts to extend and strenghten this act.

The bill authorizes the Native American Programs at the level of such sums as may be necessary for each of the 4 years, which has been traditional for this program. While supporting adequate appropriations for this program, we recognize the budget restraints under which we are working. The "such sums" authorization will provide flexibility, therefore, in the process of setting the appropriations for the Native American Programs.

Additional changes made by the bill will: First, permit multiyear grants to be awarded under this program; second, amend the rulemaking procedures of the Administration for Native Americans, increasing the opportunities for public comment on policy decisions of the Administration; and third, codify the existing grant review process and improve the flow of information about the grant awards to Congress. In general, these changes improve and strengthen the act.

It is important to note that congressional intent in codifying the application review process is not to require the routine submission to Congress of all grant application information or to restrict, in any way, the Commissioner's discretionary authority in awarding grants. The purpose is to improve the information available to Congress on the grant procedure and on awards. Under no circumstances would the Congress, peer reviewers or applicants be able to overrule the award decisions made by the Commissioner.

Again, I support this measure and commend the subcommittee chairman for his efforts.

Mr. HEFTEL of Hawaii. Mr. Speaker, I rise today in strong support of H.R. 3247, to extend the Native American Programs Act of 1974. The Administration for Native Americans [ANA], which administers this program, has been highly successful in its efforts to create social and economic self-sufficiency among native Americans.

In my State of Hawaii, we have a nonprofit community based organization, Alu Like, which was organized to serve native Hawaiians. A substantial source of Alu Like's funding has been through economic development funds from the ANA. Since 1978, Alu Like has assisted in the training and employment of approximately 9,000 of the State's 179,000 Hawaiians, and has worked with over 700 public and private agencies statewide in facilitating projects and activities aimed at creating social and economic self-sufficiency among native Hawaiians. The Native American Programs

Act, through the successes of such agencies as Alu Like, has proven itself to be a worthy program which deserves reauthorization.

I commend Mr. KILDEE for his efforts on behalf of the Native American Programs Act and urge support of H.R. 3247.

□ 1330

Mr. TAUKE. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the bill, H.R. 3247, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 3247, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## FHA AND GNMA CREDIT COMMITMENT ASSISTANCE ACT OF 1986

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4602) to authorize the Federal Housing Administration and the Government National Mortgage Association to enter into additional commitments to ensure loans and guarantee mortgage-backed securities during fiscal year 1986, and for other purposes.

The Clerk read as follows:

H.R. 4602

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "FHA and GNMA Credit Commitment Assistance Act of 1986".

SEC. 2. FEDERAL HOUSING ADMINISTRATION COMMITMENTS.

Notwithstanding any other provision of law, the Federal Housing Administration may enter into commitments during fiscal year 1986 to insure loans under the National Housing Act in an aggregate principal amount that does not exceed $95,000,000,000.

SEC. 3. GOVERNMENT NATIONAL MORTGAGE ASSOCIATION COMMITMENTS.

Notwithstanding any other provision of law, the Government National Mortgage Association may enter into commitments during fiscal year 1986 issue guarantees under section 306(g) of the National Housing Act in an aggregate principal amount that does not exceed $100,000,000,000.

SEC. 4. NOTIFICATION OF CONGRESS REGARDING HOUSING CREDIT BUDGET.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall notify the Committee on Appropriations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives if the cumulative commitments issued through the end of any month of a fiscal year by the Federal Housing Administration to insure loans under the National Housing Act, or by the Government National Mortgage Association to issue guarantees under section 306(g) of the National Housing Act, exceed the pro rata share of the aggregate commitment authority available to such Administration or Association that is applicable to the expired portion of the fiscal year. Such notification shall be made not later than 30 days after the end of the month involved.

(b) RULE OF CONSTRUCTION.—No provision of this section may be construed to establish any limitation on the cumulative commitments that may be issued during or through any month by the Federal Housing Administration or the Government National Mortgage Association.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes and the gentleman from Ohio [Mr. WYLIE] will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, this bill essentially and really, the main thrust of it, is to raise the credit limits for FHA and what we call Ginnie Mae, the Government National Mortgage Association, and their mortgage-backed security programs. This bill is critical to the Nation's home buyers as the ceiling on the GNMA Program has been reached and I understand that the credit limit on FHA will soon be reached.

H.R. 4602 increases the credit limit for the FHA program from $57.4 billion up to $95 billion and the limitation on commitments to guarantee Ginnie Mae mortgage-backed securities from $65.3 billion to $100 billion. It is important to point out that these figures represent credit limits and are not disbursements from the U.S. Treasury.

The Government National Mortgage Association Mortgage-Backed Securities Program was created by Congress in 1970 and has been one of the most critically needed segments of the secondary mortgage market in attracting additional mortgage credit into the mortgage market. This program has enabled thousands of FHA and VA mortgages to be pooled and sold to investors who are nontraditional sources of mortgage funds, which in turn has enabled many American families to purchase a home.

Unfortunately, the GNMA Mortgage-Backed Securities Program has come to a sudden halt because the ceiling for guarantee authority that is set by law was reached recently. This ceiling which was set at $68.25 billion for 1986 was reduced to $65.3 billion by the Gramm-Rudman on March 1.

The demand for GNMA commitments has been so strong that Ginnie Mae received applications for $11 billion in commitments in the first 4 days of April. While many lenders may have outstanding commitments which will enable them to continue to place FHA and VA mortgages into GNMA mortgage-backed securities, other lenders, simply do not. These lenders will be forced to find other secondary outlets for their FHA-VA mortgages, which will result in much higher housing costs.

The sudden explosion in the mortgage market has come about because of the unpredicted and unprecedented drop in mortgage interest rates. This drop has enabled thousands of families who had been priced out of the market to finally qualify for a mortgage. Thus, the FHA and GNMA programs have been in great demand.

However, with the GNMA Program closed and the credit limit for FHA soon to be reached, we must take immediate action to ensure that all families have the opportunity to become homeowners, and I urge all Members to support this bill.

Home ownership is an important part of the American dream and FHA and GNMA have helped this dream come true for many families. Let us raise these credit ceilings and continue to turn these dreams into realities.

This is a bipartisan effort. We want to recognize the leadership exerted by our ranking minority member of the committee.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is important that the House pass H.R. 4602, the FHA and GNMA Credit Commitment Assistance Act of 1986. This legislation, which I introduced last Tuesday, along with Chairman ST GERMAIN, Chairman GONZALEZ, and the gentleman from Connecticut [Mr. MCKINNEY], is critical to the Nation's home buyers. Chairman GONZALEZ has done an excellent job in explaining the bill and I do not mean to be repetitious, but I think it is important to understand why we have this legislation here today, and the need for its passage.

We need this legislation because the Government National Mortgage Association, which is popularly known as Ginnie Mae, has reached the legal

limit on the amount of the mortgage-backed securities it can guarantee in this fiscal year. Ginnie Mae has a statutorily established credit limit of $65.3 billion. On April 7 the Association notified all the participants in their mortgage-backed securities program that they would accept no further commitments to guarantee securities effective at the close of business on Friday, April 4.

Unless Ginnie Mae is in a position to guarantee securities backed by FHA and VA mortgages, lenders will be reluctant to utilize these Government programs. Industry sources indicate that if the Ginnie Mae limit is not increased in the very near future, as many as 225,000 homebuyers would have their home-buying plans disrupted. To avoid such a predicament this bill would raise the Ginnie Mae commitment level to $100 billion.

H.R. 4602 also increases the limitation on the level of FHA commitments to insure mortgages and loans from $57.4 billion to $95 billion. Although the FHA limit has not yet been reached, it is clear it soon will be due to the unprecedented heavy activity in FHA mortgages, which Chairman GONZALEZ referred to.

Finally, our legislation directs the Department of Housing and Urban Development to develop a tracking system that will allow HUD to notify Congress whenever it appears that commitments for either program are being utilized at such a rate as to pose the possibility of running out of commitment authority before the end of the fiscal year.

I think this is an important addition to the bill, also. Prompt notification will enable Congress to react and to avoid the possibility of program moratoria without facing an emergency situation as we are today.

Mr. Speaker, may I provide a little background information as to why we are faced with the necessity of raising these limits at this time. It all goes back to the high interest rates our country suffered under for several years and the subsequent economic recovery we are now enjoying.

Since the latter part of 1984 the housing industry has experienced a spectacular and unprecedented surge in home sales activity. This substantial increase in housing sales has been largely attributable to a steady decline in long-term interest rates. As long-term interest rates have declined, home ownership opportunities have increased dramatically. For example, since the fourth quarter of calendar year 1984—when the current surge began—interest rates have dropped by approximately 3.5 percent and now are under 10 percent for the first time in almost 8 years.

□ 1340

At these current low rates, the number of households which would qualify to purchase the median-priced home has increased by approximately 8.1 million. Just last week the Commerce Department reported that the decline in mortgage interest rates helped boost housing starts in the first quarter of the year to the highest level since 1978. The success of this administration's efforts to foster a healthy rate of economic growth with reduced rates of unemployment and a largely inflation free environment is clearly in evidence in the housing sector of the American economy.

All this has had a proportionate impact on the FHA program. The Department of Housing and Urban Development reports that FHA single family unit applications at the end of February totaled 547,740 and are double last year's activity for the comparable period. At the current pace, HUD conservatively estimates that single family unit applications could exceed 1.5 million compared with the 1986 budget projections for 900,000 units. These statistics, although staggering, are wonderful news and are a tribute to the economic recovery in the housing industry. It now appears virtually certain that demand for FHA mortgage insurance this year will be the highest in the FHA's 52-year existence.

FHA and VA mortgages represent approximately only 20 percent of the mortgage finance market. Individuals using FHA are generally moderate- and middle-income borrowers who cannot qualify for a loan without utilizing the low down payment feature of an FHA loan. There are literally thousands of potential homebuyers who fit that description. Most of them are first-time home buyers. These families have been waiting patiently for mortgage rates to fall to a level that would allow them to fulfill their dream of purchasing an affordable home. It would be more than unfair to freeze them out of the home buying market at this time.

What we are talking about here is credit limits—the authority of the Federal Government to guarantee a debt. As I mentioned, both the unsubsidized FHA program and Ginnie Mae are actuarially sound so the increases will cost the Federal Government nothing.

Mr. Speaker, I would like to take this opportunity to express my gratitude to the gentleman from Massachusetts [Mr. BOLAND], chairman of the HUD Independent Agencies Subcommittee of the Committee on Appropriations for his cooperation in allowing us to bring this bill to the floor in this fashion, without referral to the full Appropriations Committee. I would also like to thank the gentleman from Mississippi, Chairman WHITTEN, the gentleman from Massachusetts [Mr. CONTE], and the gentleman from New York [Mr. GREEN] who also deserve expressions of appreciation for allowing this bill to come to the floor in this way, and for recognizing the need for expeditious treatment.

In that regard I would like to call the Members' attention to a letter supporting this action that was signed by the Mortgage Bankers Association, the Multi-Housing Council, the National Apartment Association, the National Association of Homebuilders, the National Association of Realtors, the National Council of Savings Institutions, and the Public Securities Association. After outlining the reasons for increasing the limits they concluded "the undersigned organizations are urging prompt action to remedy this situation."

Finally, Mr. Speaker, I want to publically thank Mr. ST GERMAIN, Congressman MCKINNEY, and especially Chairman GONZALEZ and call attention to the yeoman service the gentleman from Texas has performed not only today but for years in promoting the cause of housing. I know that he had to postpone an important engagement back in his district to be here today. It is indicative of his dedication toward housing American families that he was willing to do so. I appreciate his cooperation and I am looking forward to working with him to bring to the floor and pass the omnibus housing legislation in a timely fashion.

I urge passage of H.R. 4602.

Mr. GONZALEZ. Mr. Speaker, I in turn wish to repeat what I said earlier and thank and compliment the distinguished gentleman from Ohio [Mr. WYLIE], the ranking minority members of the Committee on Banking, Finance and Urban Affairs, for his leadership and for his having put things together.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this legislation to raise the commitment limits for FHA and GMA.

I want to commend my colleague, the gentleman from Ohio [Mr. WYLIE], who we are all so very proud of for his leadership in introducing this legislation and for the fine job that he is doing. I also want to thank the gentleman from Texas [Mr. GONZALEZ], our chairman, who I think everybody in the House agrees puts in more hours than anyone else in the body. So we appreciate his work.

Mr. Speaker, our declining interest rates and favorable economic climate

have combined to stimulate a housing boom in this country. The beneficiaries of this strong economy have notably been first time home buyers recognizing the dream of homeownership. And those who bought homes several years ago at higher interest rates who are discovering the advantages of refinancing.

We must beware that today, this rush of housing activity is threatened. The Government National Mortgage Authority, Ginnie Mae, has already reached its 1986 volume cap of $65.3 billion.

FHA is facing a staggering volume of single-family mortgage applications. At current rates, 1986 applications will reach 1.5 million. This will outrun the FHA's initial projections for 1986 by two-thirds. The FHA's loan commitment authority needs to be increased substantially to meet this demand.

Ginnie Mae serves as a secondary mortgage market by guaranteeing securities backed by mortgages underwritten by the FHA and VA. This secondary market has served to increase the amount of credit available for housing. It has also served another purpose by helping to keep interest rates down.

Unless we raise the Ginnie Mae commitment limit almost immediately, low-cost financing for first-time home buyers through the FHA and VA will cease to be available.

A letter we all have received from a group of housing finance organizations warns that a Ginnie Mae shutdown as well as the exhaustion of FHA authority would affect 225,000 borrowers per month. Even if loans can be delivered to a different investor than Ginnie Mae, borrowers will pay up to 1½ discount points more. And, once the FHA limit is reached, that option will be closed to borrowers.

I want to stress to my colleagues that increasing the Ginnie Mae limit to $100 billion and FHA's to $95 billion does not represent new Government spending. Rather, it represents a renewed commitment to the dream of home ownership and economic growth. Passage of this legislation is the least we can do to keep the housing recovery alive.

We have had a number of economic turndowns since the Second World War, but now our economy is coming down the track like a roaring train, and nothing can revitalize our economy more than construction and housing. This legislation goes in that direction, so this legislation is not only going to help our first-time home buyers, those people who are refinancing, people in construction, but it is going to help our entire economy. That is why this legislation is so important, and why I hope everyone will vote for it.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his outstanding statement and appreciate his excellent work in our committee for the cause of housing.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in support of this legislation and I rise to commend my colleague, the gentleman from Texas [Mr. GONZALEZ], chairman of the Housing Subcommittee, and to commend the sponsor of the legislation, the gentleman from Ohio [Mr. WYLIE], for his leadership and for their work in this timely legislation to expand the FHA and GNMA credit limitations.

I have a few comments about the legislation itself as I commend these gentlemen for their leadership. First, I would note that we are at this point, acting to provide for sufficient loan limits in both of these programs for the balance of this year, and that is absolutely necessary. We are acting on credit limitations in advance of the shutoff of FHA commitments, although when we granted an extension of FHA authority last month, FHA had been closed down for approximately 10 days. At this point, GNMA is closed down and has been since April 4.

It is the on-again, off-again nature of FHA and GNMA that adds to the inefficiency, and it becomes very disruptive and costly in the marketplace. So I compliment the chairman and the sponsor for acting at this point to provide for increases in the loan guarantee authority necessary for the balance of the year. I think it has been a valid criticism of Congress that we have not acted to provide full loan guarantee authority for these programs in the past.

Second, FHA itself is a win-win situation, as we all know, as is GNMA. It provides, on the one hand, the opportunity for homeownership for millions of American home buyers. We are now issuing FHA commitments at the rate of 1.7 million commitments per year. We expect approximately 1.5 million commitments to be made for this current year, and yet it is at no net cost to the Government.

FHA and GNMA are not only entirely self-supporting, the premiums that are paid into the plan, in fact, provide mortgage insurance for what is paid out.

There have been a number of proposals over the last several years for a user fee and cap and means test. I think that none of those proposals either will be or should be adopted by this Congress. In fact, we ought to be going in exactly the opposite direction for more deregulation of FHA and GNMA.

Third, I would note, as we all know here today, that the record requests and the record demand for FHA is due to the reduction of interest rates. Perhaps the reduction of interest rates in home mortgages has been the single most significant and compassionate item that has occurred for home buyers in this country in the last several years.

It is estimated that in 1985, even before the interest rates dropped, as much as they have now, the percentage of home buyers whose housing costs exceeded 25 percent of their income was down to 33 percent of those home buyers, a reduction from 40 percent in 1984. I would suggest that that reduction will continue.

The single most compassionate thing we can do for young families in this country is to act to bring interest rates down so that they can buy a home, and act to make FHA and GNMA efficient so that they can obtain mortgage insurance to obtain that access to mortgage money.

In January, we had approximately 130,000 applications for FHA loans. That is up 63 percent from December, and it is double what it was in January of 1985. I talked with two mortgage companies this morning in the Dallas-Fort Worth area who are active in the FHA market. One told me that his FHA applications were up by some 30 percent just from February to March, and the other told me that they had closed 344 FHA loans in the first 3 months of 1986, and that is compared to 83 loans in the first 3 months of 1985. They estimate they have approximately $100 million of FHA loans in the pipeline and will close half of those in the next 60 days, thus benefiting and providing home ownership for 769 families.

An extension of FHA credit and the use of FHA to provide that opportunity for homeownership is the single most important thing that we can do for families in this country. In conclusion, it seems to me that what we are doing here today, and what we ought to be doing more of, is to focus on the residents and the home buyers, and on the customers and on the borrowers themslves and to find ways to give those home buyers that opportunity to purchase homes. It had become fashionable in recent years, I am afraid, in some circles to somehow think that homeownership was no longer the in thing over the coming decades in this country. I think that is not true. I think that it is homeownership and that prospect for universal home ownership at all income levels that is in fact and continues to be the goal of American families throughout this country, and it ought to be the No. 1 goal of Federal housing policy. We have a tendency in Washington to think in terms of institutions, of FHA, of Congress, of HUD, of OMB, of the Housing Committee, and I think what we are doing with this legislation is to reverse that and to think beginning

with the families that will be benefiting and buying those homes.

I thank the gentleman for yielding me this time.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his excellent statement and his outstanding work on the committee. He has developed a real expertise in housing and we look to him for suggestions.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 4602.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1355

## RELEASING RESTRICTIONS ON USE OR CONVEYANCE OF REAL PROPERTY LOCATED IN CALCASIEU, LA.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent for the immediate consideration of the (H.R. 4022) to direct release of restrictions, conditions, and limitations on the use or conveyance of certain real property located in Calcasieu Parish, LA.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. STRANG. Mr. Speaker, reserving the right to object, I do not necessarily object, but I take this time to ask the gentleman from Ohio to explain the request.

Mr. SEIBERLING. If the gentleman would yield, I will be happy to do that.

MR. STRANG. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, this is a noncontroversial bill reported by the Committee on Interior and Insular Affairs on April 16. It involves lands which formerly comprised the Chenault Air Force Base near Lake Charles, LA.

Most of these lands were acquired by the local authorities and then donated to the United States for the purposes of the Air Force base.

Some years ago, the base was closed. Subsequently, portions of the lands were transferred from Federal ownership into the hands of various local bodies, but these transfers were made subject to certain limitations or restrictions on the use, encumbrance, or conveyance of the transferred lands.

The local authorities now wish to reunite the old Air Force base property, and put it to use as an "air industrial park." The hope is that this will give an economic boost to a region hard hit by the decline in the oil and gas industry.

But to do this, the local authorities need to obtain the removal of the various Federal restrictions on the use, encumbrance, or conveyance of the lands. That removal would be accomplished by this bill.

As I mentioned, this is a noncontroversial proposal. The Congressional Budget Office has reported that it will involve no costs to the Federal Government. It is a meritorious bill and deserves enactment.

Mr. STRANG. Further reserving the right to object, Mr. Speaker, I thank my friend for his statement, and I would ask my friend if he has had an opportunity to relay the fact that this bill is being brought up to Mr. SENSENBRENNER.

Mr. SEIBERLING. I have checked with Mr. MOORE and Mr. BREAUX, the two Members the most interested in this legislation, and neither have any objection to bringing it up at this time.

I was not aware that Mr. SENSENBRENNER was concerned about this legislation.

Mr. STRANG. I thank my friend. We have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4022

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. RELEASE OF RESTRICTIONS, CONDITIONS, AND LIMITATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), not later than 30 days after the date of the enactment of this Act, the Secretary of Health and Human Services or the Secretary of the Interior, as the case may be, shall execute such instruments as may be necessary to release all restrictions, conditions, and limitations on the use or conveyance of the real property described in section 2, to the extent such restrictions, conditions, and limitations are enforceable by the United States.

(b) EXCEPTION.—Subsection (a) shall not apply to any restrictions, conditions, and limitations that relate to a right of access to, or use of, any real property by the United States for national defense purposes in time of war or national emergency.

SEC. 2. REAL PROPERTY DESCRIBED

The real property referred to in section 1 is the real property described in the deeds of conveyance which are contained in the records of the Office of the Clerk of Court for Calcasieu Parish, Louisiana, and which bear the following file numbers:

| | | |
|---|---|---|
| 1315177 | 1419321 | 1564169 |
| 1315199 | 1464428 | 1564208. |
| 1317259 | 1493946 | |
| 1340444 | | |
| 1358693 | | |

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the Nature of a Substitute offered by Mr. SEIBERLING: Strike all after the enacting clause and insert in lieu thereof the following:

(a) The United States hereby releases, without monetary consideration, all restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain lands located in Calcasieu Parish, Louisiana, as identified as Item Numbers, 2, 4, 5, 6, 7-B, 8, 9, X, Y, Z, and Tract 7 on the map entitled "Plat of Restricted Properties/Former Chenault Airbase, Lake Charles, Louisiana", dated December 6, 1985, to the extent such restrictions, conditions and limitations are enforceable by the United States: *Provided,* That the United States shall have the right of access to, or use of, those lands identified on said map for national defense purposes in time of war or national emergency.

(b) Nothing in this Act shall affect the disposition or ownership of oil, gas, or other mineral resources associated with lands identified on the map referenced in subsection (a).

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. SEIBERLING].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to release restrictions on certain property located in Calcasieu Parish, Louisiana, and for other purposes."

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4022, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## GARRISON DIVERSION UNIT REFORMULATION ACT OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 422 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 1116.

□ 1358

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1116), to implement certain recommendations made pursuant to Public Law 98-360, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Under the rule, the first reading of the bill is dispensed with.

Pursuant to the rule, the gentleman from California [Mr. COELHO] will be recognized for 30 minutes and the gentleman from Colorado [Mr. STRANG] will be recongized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. COELHO].

Mr. COELHO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 1116 would reauthorize the Garrison Division Unit in North Dakota. This bill includes a series of compromises on many issues which have been debated in Congress for years.

Mr. Chairman, I support enactment of H.R. 1116. It is a fair compromise, and it enjoys wide support. This support includes the Governor of the State of North Dakota, major environmental organizations, and many Members of Congress who have historically opposed construction of this project.

The chairman of the Subcommittee on Water and Power Resources, Mr. MILLER of California, is not able to be here today. He has prepared a statement in support of H.R. 1116 which details the events leading to this important compromise, and which outlines the provisions of the bill.

Mr. MILLER of California, Mr. Chairman, H.R. 1116 represents a new beginning for one of the Nation's most troubled water resource development projects. The Garrison diversion unit has been dreamed of and fought over since the turn of the century. The last 15 years have been most troublesome for the project, especially here in Congress. Anyone who has ever heard of this project can probably tell you more about it than you every cared to know.

As originally conceived early in the 1900's, and as authorized by Congress in 1944, Garrison was a massive engineering undertaking designed to irrigate vast amounts of prairie farmland in North Dakota. The project was seen by its boosters as just compensation for the losses suffered by North Dakota when the Garrison and Oahe Dams were built on the Missouri River to provide flood control, power, and navigation benefits, mostly for downstream States. A Federal investment in pumping plants, reservoirs, and canals to irrigate 1 million acres of land seemed reasonable a that time. But appropriations and construction of this large project never materialized, as attentions focused on building the mainstem dams.

Twenty-one years after the Pick-Sloan authorization, Congress reconsidered the need to construct such a large irrigation project. The "initial stage" of the project—sized at 250,000 acres of irrigation—was authorized for construction in 1965. This scaling back of the rather ambitious 1944 plan was the first of many attempts to redesign the project to make it more economical; and less damaging to the enviroment.

The somewhat tortuous history of the Garrison project is detailed in the committee report for H.R. 1116, and I will not dwell on it here. What is important today is that we are acting on legislation which will replace Garrison as it has been known for more than 40 years with a project which is leaner and more responsive to the contemporary water needs of North Dakota.

H.R. 1116 is a compromise bill. It is the result of almost 2 years of hard work and cooperation from groups and individuals who had never before been able to agree on much of anything. In particular, I would like to recongize the hard work and cooperation of all the members and staff of the Garrison Diversion Unit Commission ; North Dakota Gov. George Sinner; the Garrison Diversion Conservancy District; Congressman DORGAN; Senators BURDICK, and ANDREWS; the National Audubon Society; the National Willife Federation; and the North Dakota Chapter of the Wildlife Society.

When Congress created the Garrison Diversion Unit Commission in 1984, it was greeted with skepticism. But the commission succeeded where other attempts to redesign the prouject had failed. Perhaps most importantly, the Commission process resulted in a new atmosphere of change for Garrison. The old notion that irrigation on a massive scale would be the highest and best use of the Missouri River in North Dakota was definitively put to rest by the Commission. Instead, a project emerged which will better meets the needs of many more people throughout the State. Instead of restricting the benefits of a Missouri River diversion to a limited number of farms in the State, the Commission plan—and H.R. 1116—spreads the benefits to towns, farms, rural communities, and Indian reservations across the State.

Few things in this world are more highly charged than the politics of western water development, and Garrison must be one of the best examples of this phenomenon. On more than one occasion, committee markups of H.R. 1116 were canceled because fundamental disagreements about the bill had still not been resolved. At my request, project supporters and opponents began a lengthy negotiation process almost 1 year ago which has brought this compromise bill to the floor of the House of Representatives. Negotiations were given impetus by a provision added to the Fiscal Year 1986 Energy and Water Development Appropriations Act—Public Law 99-141. This provision stated no funds could be expended for construction or land acquisition on Garrison after March 31, 1986, unless legislation reformulating the unit was enacted.

It is important to note that if no legislation reformulating the unit is enacted, it does not necessarily mean that construction of Garrison will come to a halt. The 250,000-acre plan would still be authorized and future appropriations could be made available for that project. Thus, H.R. 1116 should be enacted to reduce the size and environmental impact of the Garrison diversion unit, deauthorize obsolete and impracticable irrigation areas, and resolve a major international environmental controversy.

PURPOSE

The purpose of H.R. 1116 is to authorize the construction of the Garrison diversion unit, North Dakota, substantially in accordance with the recommendations of the Garrison Diversion Unit Commission. The project authorized by H.R. 1116 is intended to meet the contemporary water needs of the State of North Dakota, including municipal, rural, and industrial water needs, while specifically preserving any existing rights of the State to use water from the Missouri River. Specific provisions are included in the bill to minimize the environmental impacts of constructing and operating the Garrison diversion unit, especially impacts to fish and wildlife resources.

H.R. 1116 sets forth specific requirements which are intended to assist the United States in meeting its responsibilities under the Boundary Waters Treaty of 1909.

H.R. 1116 includes measures which will improve the repayment provisions of the Garrison project by requiring the execution of new contracts, executed in confromance with the Reclamation Reform Act of 1982, for the repayment of costs allocated to irrigation before construction can begin on irrigation facilities. H.R. 1116 also authorizes the use of power revenues as a means of repaying the capital costs attributable to irrigation.

Finally, it is a purpose of H.R. 1116 to offset the loss of farmland within North Dakota resulting from the construction of major features of the Pick-Sloan Missouri Basin Program, by means of a federally assisted water resource development project providing irrigation for 130,940 acres of land.

HIGHLIGHTS OF H.R. 1116

Section 1 deletes portions of the 1965 authorization and substitutes new purposes and authorizations for the project. Specific language is included so that future water resource development opportunities for North Dakota will not be precluded. This section also provides for the preservation of North Dakota's water rights claims, and terminates portions of the 1944 and 1965 acts and the irrigation acreage authorization in those acts. This section provides that all facilities authorized by H.R. 1116 are to be sized to serve only the 130,940-acre irrigation plan and North Dakota's plan for providing municipal and industrial water service to cities and rural communities—facilities are not to be made

large enough to serve the old 1,007,000-acre or 250,000-acre projects. Finally, the bill makes nonreimbursable the costs of facilities already built which won't be used in the 130,940-acre plan.

As a result of this section, the authority of the Secretary to plan and construct 922,910 acres of irrigation in several parts of the State has been terminated. In addition, the supply works, canals, laterals, and drainage facilities necessary to serve these areas have been terminated as well. The specific areas authorized by H.R. 1116, the 1944 act, and the acreage terminated by H.R. 1116 are detailed in table 1, included in the committee report accompanying H.R. 1116. I ask that this table be included in my statement at this point. There should be no question that H.R. 1116 represents a complete reformulation of the Garrison project, and that all previously authorized irrigation not included in H.R. 1116 will be deauthorized when this bill is enacted. It is especially instructive to note that approximately $543 million in irrigation features in the Hudson Bay drainage authorized in 1965 are deauthorized in H.R. 1116.

TABLE 1.—IRRIGATION AREAS TERMINATED BY H.R. 1116

| Irrigation areas | Areas authorized by 1944 act (acres) | Authorized by H.R. 1116 (acres) | Terminated, by H.R. 1116 (acres) |
|---|---|---|---|
| Souris Loop area | 327,670 | 0 | 327,670 |
| East Souris area | 151,950 | 0 | 151,950 |
| Coleharbor section | 39,820 | [1] 13,700 | 26,120 |
| Harvey pumping area | 10,310 | 2,000 | 8,310 |
| New Rockford area | 67,190 | [2] 22,135 | 45,055 |
| Sykeston area | 37,000 | 0 | 37,000 |
| Berlin area | 12,740 | 0 | 12,740 |
| Harvey-Maddock area | 86,260 | 0 | 86,260 |
| Warwick-McVille area | 42,380 | 0 | 41,380 |
| Baldhill area | 96,810 | 0 | 96,810 |
| LaMoure section | 12,200 | 13,350 | −1,150 |
| Oakes section | 108,000 | 23,660 | 84,340 |
| McClusky Canal area | 10,790 | [3] 10,515 | 275 |
| Velva Canal area | 5,00 | 0 | 5,000 |
| Undersignated | 0 | 28,000 | −28,000 |
| Indian irrigation | 0 | 17,580 | −17,580 |
| Total | 1,007,120 | 130,940 | 876,180 |

[1] Includes the Turtle Lake area.
[2] Includes New Rockford area (20,935 acres) and New Rockford Canalside (1,200 acres).
[3] Includes McClusky Canal (4,000 acres) and Lincoln Valley (6,515 acres).

This section also places strict limitations on the size of some of the project supply facilities. Specifically, the Sykeston Canal and the James River Feeder Canal are to be built only to the size needed to serve the authorized purposes identified in H.R. 1116.

Section 2 generally adopts the Commission recommendations on fish and wildlife mitigation and enhancement, including the policy that mitigation is to be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction. Three exceptions to the Commission fish and wildlife recommendations are made regarding the status of Sheyenne Lake National Wildlife Refuge, the costs of developing and implementing fish and wildlife plans, and the use of reservoir sites as credit toward mitigation.

H.R. 1116 in many ways represents a new partnership between development and conservationist interests in North Dakota. The provisions for fish and wildlife developed by the Commission and included in H.R. 1116 represent innovative approaches to problems which have plagued the Garrison project for years. This bill offers the Bureau of Reclamation and the Fish and Wildlife Service a new opportunity to put aside their differences and cooperate in the implementation of the fish and wildlife provisions included in H.R. 1116.

Section 3 authorizes construction of the non-Indian irrigation areas totaling 85,360 acres in nine specified areas after September 30, 1990, and after completion of a comprehensive study of the impact of such development on the James River; 28,000 additional acres of non-Indian irrigation development outside the Hudson Bay, Devils Lake, and James River basins are also authorized. During the study period, construction may continue on the New Rockford Canal and the Oakes Test Area, and work may begin on the M&I water systems, but no work may take place on the Sykeston Canal or the James River Feeder Canal, or on the James River channelization until the report on the James River has been completed and submitted to the Congress. A new repayment contract(s) must be executed before development of the non-Indian irrigation areas begins. This section also authorizes the development of 17,580 acres of Indian irrigation in three specific locations, and prohibits the use of project facilities for nonproject drainage of wetlands.

I consider the requirement for the James River study to be one of the most important provisions of H.R. 1116. It is somewhat ironic that, despite the tremendous amount of irrigated acreage which is deauthorized by H.R. 1116, the amount of irrigation in the James River drainage basin is dramatically increased in this bill. This means that the James River will receive both the water supply for much of the irrigated lands, and the drainage return flows from those lands.

This study of the James River is intended to accomplish more than simply documenting the damage which will be done to a prairie river. The results of this study should guide the Secretary of the Interior in decisions made on how Garrison should be constructed and operated, so that impacts on the river are minimized. Special attention should be given to river flows and the effects on Arrowwood and Sand Lake National Wildlife Refuges. Every effort should be made to limit damage to the refuges and other parts of the river in both North Dakota and South Dakota. Finally, it is important that this study be conducted in an open and forthright manner, with the cooperation of any interested groups, agencies, and individuals.

Section 4 authorizes the use of Pick-Sloan power for State MR&I water supply facilities. The section requires repayment of irrigation costs by power revenues to be made over 40 years on a regular basis, and states that any power rate increases resulting from changes made by this reformulation of Garrison would be phased in over a 10-year period.

Section 5 authorizes the $200 million State of North Dakota's MR&I water development plan. An additional $40.5 million is made available to construct, operate, and maintain a water release and treatment facility to deliver 100 cubic feet per second of Missouri River water to Fargo, Grand Forks, and surrounding communities. All MR&I water diverted into the Hudson Bay drainage must be treated and must comply with the Boundary Waters Treaty of 1909. The construction of MR&I water systems for the Fort Berthold, Standing Rock, and Fort Totten Indian Reservations is also authorized.

The MR&I systems authorized in H.R. 1116 are designed to serve domestic water needs in many parts of the State, including areas which drain into Canadian waters. This would not be possible without the cooperation of the Government of Canada, which indicated to the Garrison Commission its willingness to accept the transfer of water which has been treated to ensure the removal of foreign biota. This was a critical step in development of the Commission plan, and H.R. 1116.

I want to give special emphasis to the critical rural domestic water supply needs of the Indian reservations. H.R. 1116 authorizes appropriations of $20.5 million for Indian MR&I development. This authorization was based on very preliminary information available to the committee and the Bureau of Reclamation. As more details regarding the Indian MR&I needs and water systems become available, it is quite possible that additional spending authority may be needed. The Secretary of the Interior should keep Congress advised of this situation, and there should be no hesitation in returning to Congress if additional authorization of appropriations for these water systems is needed.

Section 6 authorizes the Sykeston Canal as a replacement for Lonetree Dam and Reservoir. The size of Sykeston is limited to that needed to meet the water delivery requirements of the authorized irrigation service areas and the M&I water needs. Lonetree remains an authorized project feature, but couldn't be built unless: (1) the Secretary has determined there is a need for the dam; (2) consultations with Canada are completed; (3) Secretaries of the Interior and State certify that both actions (1) and (2) above have been completed, submitted the determinations to Congress, and 90 days have elapsed. This section also deauthorizes Taayer Reservoir as recommended by the Commission.

The Lonetree Reservoir/Sykeston Canal issue was by far the most important problem addressed by the Garrison Commission, and Lonetree remains a very sensitive issue to the State of North Dakota. It is my sincere hope that the Bureau of Reclamation, the State, and others will cooperate so that this issue may finally be put to rest in the manner contemplated by H.R. 1116.

The location of the Sykeston Canal could present problems in the future. The committee originally had the clear understanding that the canal would be located well away from the Lonetree Valley in order to avoid possible biota transfer into Canada via the Sheyenne River, and to minimize effects on wildlife. However, the Bureau of Reclamation's draft environmental impact statement on the Commission plan, released just days before the committee marked up H.R. 1116, indicates a preferred location for the Sykeston Canal right smack in the bottom of the Lonetree Valley. Special restrictive language had to be included in the bill to ensure that the U.S. obligations under the Boundary Waters Treaty would be met if this alternative routing for the canal is finally selected. I strongly urge the Bureau of Reclamation to avoid a routing for the Sy-

keston Canal which could cause almost as many problems as Lonetree Reservoir.

Finally, this section specifically deauthorizes the construction of Taayer Reservoir, which would have destroyed Kraft Slough in southeastern North Dakota. The Garrison Commission specifically determined that Kraft Slough was a "unique" environmental feature which should be preserved and used only for wildlife habitat. This determination to deauthorize taayer Reservoir as a project feature was a turning point in the work of the Commission, and H.R. 1116 contains specific language to implement this important recommendation of the Commission. It is the clear intent of the committee that Kraft Slough be designated as a national wildlife refuge so that the maximum amount of protection for this area is provided.

Section 7 requires the Secretary to charge 10 percent of full cost for water used to grow crops in excess supply until the project repayment obligations have been satisfied.

Section 8 authorizes appropriations for the project. The appropriation authorization for development of non-Indian irrigation is limited to $100 million

Table 2 of the committee report displays a summary of the costs of the Garrison diversion unit and the appropriations authorized by H.R. 1116. I ask that this table be included at this point in my statement. It is especially important to note that the authorization of appropriations for non-Indian irrigation is specifically limited in H.R. 1116. Additional authority will be required in the future if these systems are to be completed.

TABLE 2.—GARRISON DIVERSION UNIT REFORMULATION COST SUMMARY

| Category | Total cost to complete | Appropriations authorized |
|---|---|---|
| Section 10(a): | | |
| Non-Indian irrigation areas | $322,400,000 | [1] $100,000,000 |
| Indian irrigation | 67,910,000 | 67,910,000 |
| Supply works | 170,395,000 | [2] 170,395,000 |
| Subtotal section 10(a) | 560,705,000 | 338,305,000 |
| Section 10(b): | | |
| M&I water supply | 200,000,000 | 200,000,000 |
| Sheyenne River facility | 40,500,000 | 40,500,000 |
| Indian MR&I | 20,500,000 | 20,500,000 |
| Subtotal section 10(b) | 261,000,000 | 261,000,000 |
| Section 10(c) | 80,535,000 | 80,535,000 |
| Total authorized by sections 10(a)–(c) | 902,240,000 | 679,840,000 |
| Sunk costs to date | 275,250,900 | |
| Total project cost | 1,177,480,910 | |

[1] Funds cannot be obligated until 1990.
[2] Funds for Sykeston, James River Feeder Canal, and James River channel improvements cannot be obligated until the study required by section 5(c) is completed.

Section 9 authorizes Federal participation in a North Dakota wetlands trust. The trust will be established in North Dakota to preserve and enhance wetlands and wildlife habitat.

The establishment of this wetlands trust is a clear indication of the cooperative attitude which resulted in the compromise bill now before us. The wetlands resources of North Dakota are of tremendous national and international significance. Establishment of the trust is a clear indication that a comprehensive approach can now be taken in North Dakota for protecting flyway resources.

Section 10 requires soil surveys for irrigation to include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows.

Section 11 designates the short title of this act as the "Garrison Diversion Reformulation Act of 1986."

Section 12 states that this act meets the time and substance requirements for a Garrison reformulation which are set forth in the Fiscal Year 1986 Energy and Water Development Act.

Mr. Chairman, H.R. 1116 represents a positive step forward for water resource development in North Dakota. This bill will provide many people in North Dakota with direct benefits from the Missouri River, and will resolve a number of controversies which have prevented the development of resources in the State for years. A vote against H.R. 1116 means a vote to possibly reinstate the old Garrison project with noe of the reforms. I strongly urge my colleagues to support H.R. 1116.

Mr. COELHO. Mr. Chairman, I would like to thank all the groups and individuals who participated in the development of this compromise.

I urge my colleagues to join me and Chairman MILLER in support of H.R. 1116.

Mr. STRANG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the compromise which has been reached on the Garrison project in H.R. 1116 is a fair and equitable compromise and has brought into it many of the additional opponents of this proposal. When you have the recognition that the State of North Dakota, when Governor Sinner, Senators ANDREWS and BURDICK, the Garrison Conservancy District, the Audobon Society, and the National Wildlife Federation have pulled together to support this compromise, when you realize, Mr. Chairman, that certain long-standing opponents of this proposal including my distinguished colleague from Massachusetts, Mr. CONTE, have now said that they can support this, my distinguished colleague from Michigan, Mr. DINGELL, will support this, my distinguished colleague from California, Mr. MILLER, it should tell us that when people come before the Congress and receive assurances that if they will compromise and refine and do their homework and pull together, they can then rely on their Government to do its part, that should tell us that we have an obligation to listen to this compromise and to react favorably in this body.

This bill is consistent with that process, and I for one feel that we have a deep obligation when we tell people to go back out, do their homework, put their activities together, and we will respond on our side that we should do so.

I urge the passage of this compromise proposal.

Mr. Chairman, I reserve the balance of my time.

Mr. COELHO. Mr. Chairman, I yield 2 minutes to our distinguished committee chairman, the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Chairman, I rise in support of H.R. 1116, the Garrison Diversion Unit Reformulation Act of 1986.

This legislation embodies a series of carefully crafted compromises which, if enacted, will bring to an end years of bitter controversy over water resource development in North Dakota.

As reported by the Interior Committee, H.R. 1116 would implement the recommendations of a congressional commission that was established in 1984 to review the water needs of North Dakota.

It would deauthorize over 900,000 acres of previously authorized irrigation which, according to CBO, would ultimately save the taxpayers of this Nation $2.6 billion.

It would establish an innovative municpal, rural, and industrial water supply grant program to meet the water needs of more than a third of North Dakota's population.

It would provide for water development on two Indian reservations that were severely impacted by the project.

It would resolve longstanding environmental concerns of the Government of Canada.

It would establish an innovative wetlands trust to meet a variety of concerns involving wetland protection and enhancement.

Lastly, the bill includes important reforms designed to ensure that funds owed to the Federal Government for project construction are repaid in a more timely manner.

Mr. Chairman, I am very pleased to say that this legislation is supported by nearly all interests in North Dakota, as well as the National Wildlife Federation and the National Audubon Society.

It is extremely important legislation that is in the national interest as well as in the interest of the people of the Missouri River basin and Canada.

I strongly urge its passage by the House.

Mr. STRANG. Mr. Chairman, I have at this time no additional requests for time, and I reserve the balance of my time.

Mr. COELHO. Mr. Chairman, I yield 11 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I know that when some in this body saw the posting of the Garrison Diversion Unit Reformulation Act on the calendar today, the reaction might have been, "Oh, no, here's Garrison again"—because Garrison has been a very tough issue for a number of people in the House of Representatives.

This is not the same old Garrison project that we have been discussing in the past years. Months and months amd months of compromise, with a lot of very hard, difficult meetings and with tough choices have been made by supporters and opponents of this project has now resulted in a compromise project, a reformulation of the Garrison Diversion Unit in North Dakota.

I would like to describe this new project, briefly, for the House today. First of all, this compromise proposal rather sharply reduces the cost and the size of the contemplated Garrison project in North Dakota. In fact, irrigation is cut to nearly one-eighth the original size; costs are cut by $2.6 billion from the 1944 Pick-Sloan Act and costs are cut by $809 million under authorization from current law. So, voting "yes" on this compromise ensures that the above reductions, that I have just described, will take place.

□ 1405

Voting "no" would mean we would be left with the old project, which is substantially more costly; and, of course, different in many other ways as well.

The Chairman indicated that some of the previous opponents to this project are now supporting it. Let me amplify on that to say that those who in the past have opposed this project, my distinguished colleague, Congressman CONTE, Congressman DINGELL, Congressman FASCELL, and others; groups such as the National Audubon Society, National Wildlife Federation, and others, have now, as a result of participation in this process leading to a reformulation of this project, indicated that they supported this reformulated Garrison plan. So I think we have made major progress, and I salute all of those project opponents and supporters who participated in the process which has resulted now in this compromise proposal.

Now, Mr. Chairman, for many, many years in the first part of this century and long before that, I suppose, the Missouri River, was a sort of a strange river. In the spring it would result in terrorizing floods, cause enormous damage in property, lives lost, then through the rest of the year, it became just sort of a lazy, shallow, muddy river. The result was in one part of the year you had this raging river that caused enormous problems for a major part of this country, and the rest of the year you could not use if for much. Essentially no navigation was undertaken on the Missouri River because that navigation was completely unreliable due to the nature of the river.

So, back in the 1940's, actually the late 1930's and the 1940's, the proposal was "Let us harness that river and get from it what we can for the downstream States, get some good things from it. The result is that the costs of harnessing that river, will be borne by the upstream States and we will reimburse them for those costs." Now, I was 2 years old at the time the Federal Government said to North Dakota, "We are going to embark on the Pick-Sloan plan which is going to result in main stem dams up north, and when we put those dams up north then we are going to harness the river and we are going to be able to have reliable navigation down south, we are going to be able to produce electric power and generate it all around the region, we are going to have irrigation capabilities." They said "We are going to do a lot of good things by harnessing this river. And especially, most especially, we are also going to prevent hundreds of millions of dollars, yes even billions of dollars of flood damage that now occur that won't occur when we harness that river.

So North Dakota, quite appropriately back in 1944 said, "Well, we understand that. What you are saying is you want to create a flood up here forever in order to control the flooding downstream that happens each spring. What do we get for that? What is the exchange for our saying, 'Yes, we will host the flood forever, every single year, all year long, we will host the flood that is 850 square miles, three-fourths the size of the entire State of Rhode Island,' yes, we will play host to that flood forever—but what do we get in return for that?" The Federal Government says, "If you will agree to that forever-flood, then we will allow you to divert those waters from behind that dam from that flood all around the State because a semiarid State with 15 or 18 inches of rainfall per year obviously needs the capability for long-term economic health to move those waters around for municipal, industrial purposes, irrigation purposes, and others."

So back in the 1940's we said, "Well, that sounds like a decent bargain, a good deal." So, we contracted with the Federal Government, or they with us. We did not come to them, they came to us.

We said, "That is fine." So they built the dam. We have the flood, the flood came and stayed. We now lose $130 million a year every year from what would have been generated in our economy as a result of the loss of that rich bottomland. But the flood is there every year. States downstream get enormous benefits. The States, that benefited, for example, if I might describe a few of the benefits to you:

Iowa gets $324 million worth of power, $94 million in flood damages which have been prevented, Minnesota gets $610 million worth of power which has been generated, Nebraska $412 million of power from this project, $353 million in flood damages prevented in Missouri.

Those are all the benefits that accrue to all of those folks downstream. For years we have been debating about the benefits that ought to occur for us, the benefits that we were promised, the second half of the bargain.

What does North Dakota get for its economic future as a result of the bargain it made with the Federal Government? We have had difficulty getting the Garrison Diversion project built because it was controversial.

Now a lot of very serious-minded people have sat down together and said, "All right, let's reformulate this in a way that works so that we can get it built." That is what has resulted in this Garrison Diversion project which is now before you.

Ater 40-some years, we hope we are going to see the fruition of a Garrison project that can help North Dakota's future. Ninety percent of the power that is produced has gone out of the State. Ninety-eight percent of the flood control that has been prevented has been prevented for the benefit of the downstream States. And 100 percent of the navigational benefits that accrued from this project accrued to someone else.

The Garrison project, as it is now reformulated, will represent the benefits that are the other half of the bargain North Dakota and the Federal Government made over 40-some years ago.

Other speakers have mentioned that there are supporters for this reformulation that were previously opponents, and I alluded to that as well.

Let me show my colleagues a "Dear Colleague" letter that went out to every Member of the House, signed by Congressman UDALL, the distinguished chairman, SILVIO CONTE, DON YOUNG, JOHN DINGELL, TOM PETRI, DANTE FASCELL, BOB EDGAR, myself, and others.

These are supporters and opponents joining in the same letter, saying, "We support this compromise."

Here is a letter from the National Wildlife Federation saying, "We support this compromise." An organization that previously had been opposed.

The National Audubon Society is saying, "We support this compromise."

Again, Members of Congress, this compromise was not easy to achieve. It was literally months and months and months of meetings; it represents a very delicate compromise, but one that we think represents the best interests of this country and one that I think represents the best interests of North Dakota. I would hope that, as you consider your support for this project, you will understand that these things are very difficult to put together and can unravel very easily and quickly. We think it is a good compromise on irrigation issues, a good compromise

on power issues, a good compromise on conservation issues, and I urge my colleagues to support this legislation.

Mr. STRANG. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I would be happy to yield to the gentleman from Colorado.

Mr. STRANG. I thank the gentleman for yielding.

I am very interested in my friend's comments as to commitments made on these upper and lower projects on the Missouri because my friend is probably aware of commitments made by this Congress in 1968 with regard to construction of the Central Arizona project. The other side of that was upper basin projects, particularly in the Animas-La Plata, which was supposed to have been built and in operation before any waters went to the Central Arizona project. We all know that there has been a good deal of delay on that, but we think the same principle applies.

We thank the gentleman for bringing up the point of commitments made and kept.

Mr. DORGAN of North Dakota. I think the gentleman from Colorado makes an important point, and it buttresses the point that I have been making.

Now let me make one final point, Mr. Chairman: Because this project became the subject of great controversy, a special commission was created in previous legislation that was an attempt to investigate, evaluate and review this project in some detail.

That commission met and issued certain recommendations. It studied this project in great detail. Then it issued a set of recommendations that it felt was necessary for reformulation of this project. This compromise represents the interpretation of that Garrison Commission Report on how to reformulate this project in the interests of everyone; in the interest of the taxpayers, in the interest of North Dakota, in the interest of this country, in the interest of those who are concerned about the environment. This reformulation represents the embodiment of what that Commission, which studied this project in detail, recommended to this country.

For that reason I would urge my colleagues in the strongest terms possible to accept this very delicate compromise and move ahead to complete what had been a promise and a hope and a dream for North Dakota's future and what, we've felt, was a bargain with the Federal Government that we could count on.

Mr. COELHO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to compliment the gentleman from North Dakota for his diligence on this particular piece of legislation. He has worked very hard and deserves a great deal of credit for that from his constituents and from the people in that general area. But he also deserves a vote of thanks from his colleagues for his efforts to put this together and take out the controversy that did exist in this legislation.

Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. BEDELL].

Mr. BEDELL. First of all, I would like to echo the remarks made by my good friend from North Dakota; indeed he has put a great deal of work into this effort trying to get a project that would be acceptable all the way around.

I will have an amendment to this bill, and I wanted to explain my amendment and why I am bringing that amendment forward.

My amendment, pure and simple, will simply say that for those farmers who are growing crops that are in surplus and for which we are paying other farmers not to grow such crops, that they will have to pay the full cost of the water if they decide that they are going to grow crops that are in surplus. This bill does say that they will pay 10 percent of the cost, of the interest cost of delivering the water to those crops that are in surplus. I think the gentleman is right, indeed North Dakota did give up land in order for this project. Indeed, at that time there were commitments made that somehow they would be repaid in some manner. However, I think we are responsible for water policy. my concern is what sort of water policy are we going to establish in this country of ours?

At least as a member of the Committee on Agriculture, for us to take taxpayers' dollars every year to pay to deliver water to farmers so they can grow more crops which at the same time we are turning around and paying either those farmers or other farmers not to grow seems to me to be about as bad a fiscal policy as we could possibly adopt.

For your information, the total cost of delivery of water every year to those farmers who are using this water, if you include the interest on investment cost, is roughly $500 per acre per year. It is estimated farmers can pay up to $70 per year. Which is to say that continuing on every year taxpayers will be paying $400 per acre per year to furnish water to these people who are irrigating and to pay that kind of money to subsidize crops at the same time they are turning right around and paying other farmers not to grow crops seems to me to be about as bad a policy as we could have. So that at least the effort that I will have will be to establish water policy that seems to me to make some sense.

Mr. STRANG. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I will be glad to yield to my friend.

Mr. STRANG. I thank the gentleman for yielding.

It is my understanding that the makeup of the slack in costs has not in fact come from the taxpayers but in fact from power revenues. Is that the understanding of the gentleman?

Mr. BEDELL. No, it is my understanding it comes from both.

Mr. STRANG. I see. Well, my understanding has been that the Pick-Sloan funds would pay for the difference between agricultural costs and the other costs of the water delivery. Does the gentleman dispute that?

Mr. BEDELL. Wait. I do not know what the gentleman is saying.

Mr. STRANG. If I could read from the provisions of the bill, if the gentleman will further yield:

"(B) Notwithstanding the provisions of section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(3)), any portion of the costs properly chargeable to irrigation for the Garrison Diversion Unit which are beyond the ability of water users to repay as authorized by Reclamation law may be repaid from power revenues, except repayment of investment in irrigation for the Garrison Diversion Unit made after the date of enactment of this Act may not exceed forty years from the year in which irrigation water is first delivered for use by the contracting party and shall be made in equal annual installments."

That is my understanding.

Mr. BEDELL. But that says may be, may be paid by them, if the gentleman read it correctly. Is that correct?

Mr. STRANG. Well, I thank the gentleman for yielding.

Mr. BEDELL. Well, is that what the bill said?

Mr. STRANG. My understanding is that it will be paid by power revenues.

□ 1420

Mr. BEDELL. But how are they going to do that to the tune of $400 per acre per year?

Mr. STRANG. If the gentleman will continue to yield, the same way we do on other projects, as is contemplated, for example, in the Colorado River Basin projects both above and below Lees Ferry, upper basin and lower basin.

Mr. BEDELL. No. The issue has to do with the interest cost of the value of the project. I hope the gentleman understands that.

Mr. Speaker, does the gentleman think that on other projects the people are paying the full cost of the water, or that if they are not paying the full cost, it is recovered in electricity?

Mr. STRANG. If the gentleman will continue to yield, my understanding is that, yes, indeed that is the purpose of having the power revenues on these projects, in order to makeup costs between what the agriculture operator is able to pay or not able to pay, and that is where the slack comes from. That has certainly always been the

intent on western reclamation and power projects.

Mr. BEDELL. The gentleman believes that in most of our water projects, indeed the users are paying full cost of the water unless it is taken up by other private industry in some manner, including the interest cost on the investment; is that correct?

Mr. STRANG. Mr. Chairman, if the gentleman will yield, I would say yes, and there is an evolution in western water projects in which, as in the Garrison proposal, there is a repayment for what is called M&I waters, municipal and industrial waters, which make the project even more feasible.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, my understanding on that point, incidentally, is that 85 percent of the cost would be borne from revenues that come from the power that is generated. I cited on the floor the power that Iowa has received, about $324 million according to the Army Corps of Engineers, from that Garrison Dam that was built in North Dakota yields benefits to others including Iowa.

But I asked the gentleman to yield for two particular purposes. One is to see if the gentleman will acknowledge that what the gentleman is proposing for this project will mean that the acres irrigated under this project will be the only acres in America that will be subject to the kind of surcharge that the gentleman is proposing. Would that not be the case?

Mr. BEDELL. I think that is very likely. I think the question is whether we should start to have some sense in the policies we have or whether we should continue with policies, what we are going to do is we are going to subsidize people to grow crops and, regardless of how it is paid, the more crops they grow, the more the Government is going to have to pay out to other farmers not to grow crops. So, either way, it is going to increase the cost to the Government.

Mr. DORGAN of North Dakota. Mr. Chairman, if the gentleman will yield further, I understand that.

I believe then the answer is "yes," that the irrigated land in North Dakota will be the only land out of the over 10 million acres of irrigated land under the reclamation projects that will be subject to this kind of a charge.

In fact, in this compromise itself, we agree to a 10-percent surcharge, and the 10-percent surcharge, which will represent about $50 an acre, will be the only surcharge borne by any of the reclamation land that is irrigated in the United States. We agreed to that.

The difference between what we are suggesting is not a difference in whether we should do something. The difference is in magnitude.

The gentleman is suggesting something that I think, in my judgment, is unreasonable. We suggested something that philosophically is in tune with what the gentleman is trying to do, but that we think makes more sense.

Mr. Chairman, if I might make one more final point, I do not know whether the gentleman is aware of it, but at the present time on those acres in North Dakota that are privately irrigated, about 90 percent of what is growing on those acres are not excess or surplus crops. In fact, most estimates are that we are not going to be putting this kind of land into the production of wheat or corn. It is more likely to be forage crops, alfalfa, dry edible beans, and other things.

But it seems to me that the difference between 10 percent and 100 percent is the difference between first unraveling a compromise that has been very delicately woven, and then, second, is probably preventing some very critical flexibility in the short term on a small marginal amount of land by some irrigators.

But I understand what the gentleman is trying to do. Those of us who sat around a table and hammered out a very difficult compromise not only understood what the gentleman was trying to do, but put it in the compromise with a 10-percent surcharge so that it represents the only irrigated acreage in America that will bear that surcharge.

Mr. Chairman, I submit to the gentleman and I submit to the rest of the House that what we did was responsible and solves the same kind of problem the gentleman is trying to solve—but does it in a way that retains a compromise that we think is very important for our State and for this Congress and for this Nation.

Mr. BEDELL. Mr. Chairman, I want to give the gentleman more time.

Mr. Chairman, will the minority yield time if we need time to complete our debate?

Mr. STRANG. Mr. Chairman, we will be happy to yield 3 additional minutes to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I do not want to take more time than need be.

Mr. Chairman, let me read from the previous legislation, Public Law 89-108, the 1965 Garrison authorization legislation. It included a section which reads as follows, section 5. I read this so we do not think this is something new that is being done:

SEC. 5. For a period of ten years from the date of enactment of this Act, no water from the project authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, as any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act * * *.

This was passed in 1965. This did not just say that you have to pay the full cost of water. This says that you cannot even grow those crops on this project.

So I think for the gentleman to say this is something new that we are doing is a little unfair. But the issue is pure and simple. The issue is that we have had water policy that said, go ahead, we are going to go ahead and subsidize farmers to grow crops that are in surplus.

Some of us feel that that is wrong, and I am one of those. If it is wrong, then we have to correct it.

Mr. Chairman, it is too bad that the gentleman is first as we come forth to that position. But I do not think I would be serving the taxpayers properly if I said that since we have already been doing it, and since I fought this before in a similar manner, that now I am going to stop just because—the truth of the matter is I am a very good friend of the gentleman from North Dakota, or I consider myself to be a friend of the gentleman from North Dakota. But I think that if we have bad policy, that policy should be corrected, and we have to correct it when we can.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman.

Mr. DORGAN of North Dakota. Mr. Chairman, I understand what the gentleman is trying to do. All I am trying to suggest to the gentleman, and it is very important, is that we did consider exactly those arguments in the forging of this compromise.

I think the gentleman will acknowledge that we attempted to describe these acres, as acres that will have a surcharge if those acres produce a crop that is declared in excess or surplus. It is important to understand that they will represent the only acres in America under these Bureau of Reclamation irrigation projects that will have a surcharge imposed with them.

I think that the gentleman is suggesting something that will unravel this compromise completely; and yet, what we have done in the compromise, I think, solves most of the gentleman's problems, at least I think it could solve most of the gentleman's problems.

Mr. BEDELL. Does the gentleman think the 10 percent will be enough so that it will not be economical for farmers to grow surplus crops?

Mr. DORGAN of North Dakota. Generally, I believe that will be the case.

Mr. BEDELL. I guess the concern I have is that I think this is an important issue. I think it needs to be debated. And if there are other Members waiting to speak, I can understand our not having an opportunity to debate it; but if there are not, it seems to me we should have a chance to talk it out.

If the gentleman does feel that the 10 percent is sufficient so that it would prevent people from planting surplus crops, then the 100 percent will do nothing more than what the 10 percent does and we will have good, sensible water policy established from now on into the future as has been indicated in some previous legislation.

Mr. DORGAN of North Dakota. The reverse side of that is if the 10 percent will do it, why is 100 percent important?

Mr. BEDELL. Pure and simple, because that is sensible water policy. Sensible water policy is that we do not subsidize farmers to grow crops at the same time we are paying other farmers not to grow those same crops.

□ 1430

That is sensible water policy, I would think we would agree.

Mr. STRANG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to point out to my friend, the gentleman from Iowa, three things: One is that the 1965 provisions to which he refers, which I find very interesting, obviously do not apply here because they expired in 1975.

Additionally, current policy is that these projects will be paid back their original cost 100 percent, and the thing that is tighter in this particular one is that it is limited to 40 years, which is a tighter provision than past history shows us. It makes it a more difficult part.

Additionally, this compromise is composed of so many sensitive elements. We sent the people out of here last year. They came before us. We said, "You go back. This is not going to work. It is not going to work with Canada, it is not going to work with many people in the Congress, it is not going to work with the conservation groups." And we said, "If you can work that out, we will work with you, the Governor and the whole crew." And they did work together and they did come back, and they came back with a proposal considerably more refined and narrowed down than we ever dreamed they would. And they came back in reliance that we would say, "By golly, you have done your part, we in the Congress will now do our part." And I share the gentleman's fear about using project water to grow surplus crops, but I would ask the gentleman to understand that the sensitivity of this compromise is such that if we can possibly get this project moving forward out of this body, without derailing it over that type of an issue, it would be a recognition to those people that we sent back out there saying, "Yes, you did your work, and we are going to meet you on this, we got some reservations, but you came up with something that is better for the American taxpayer than anything we have ever seen." And I would urge the gentleman to recognize that.

I yield to the gentleman from Iowa.

Mr. BEDELL. You are right, except my point was that in 1965 they acknowledged that this was sensible water policy. The time has expired. But in 1965, when they passed the law, it was acknowledged, that went even further than this, that says you cannot even use surplus water for such crops. But further than that, it seems to me that the people who were negotiating this compromise—and I agree it is better than what we have had, sure—but it seems to me that they were not the ones who have the proper concern as to what is done as far as the taxpayers are concerned. It seems to me that it is our responsibility, and it seems to me, therefore, that for us to just say carte blanche, "You go ahead and work out a compromise and then we will accept it, regardless of whether it makes economic sense to the taxpayers or not," does not seem—and I am not trying to derail the project. I am just saying that from the taxpayers' standpoint, the more crops we raise, the more it is going to cost us.

Mr. STRANG. Reclaiming my time, I thank the gentleman for those comments.

Mr. FASCELL. Mr. Chairman, I would like to commend those responsible for crafting this legislation—the chairman of the Committee on Interior and Insular Affairs, Mr. UDALL; the chairman of the subcommittee, Mr. MILLER; and Mr. DORGAN—for finding an acceptable resolution that will finally take this perennial problem off the congressional agenda.

H.R. 1116 was jointly referred to the Committee on Interior and Insular Affairs and the Committee on Foreign Affairs. The latter committee received referral because of its jurisdiction over boundary and water matters and because the Garrison Diversion has been a major issue in relations with Canada. However, the Interior Committee did such an excellent job in resolving the differences, including Canadian concerns over potential environmental effects on Canadian waters, that the Committee on Foreign Affairs found it unnecessary to take formal action on the bill.

The Garrison Diversion Unit has been discussed at the annual meetings of the Canada-United States Interparliamentary Group for each of the last 10 years. It will be a pleasure to inform my Canadian colleagues that the matter will probably not have to be included on the agenda for next year's meeting.

Mr. Chairman, I congratulate and thank the members of the Interior Committee for resolving this matter and urge the House to pass the bill.

Mr. STRANG. Mr. Chairman, I reserve the balance of my time.

Mr. COELHO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DORGAN of North Dakota) having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1116) to implement certain recommendations made pursuant to Public Law 98-360, had come to no resolution thereon.

## GENERAL LEAVE

Mr. COELHO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1116, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## ORDER OF BUSINESS

Mr. COELHO. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. WRIGHT] be permitted to take his special order immediately after the gentleman from Wisconsin [Mr. ROTH].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## NUCLEAR SAFETY BOARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. UDALL] is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, today I am introducing a bill to provide for establishment of a Nuclear Safety Board [NSB]. Identical legislation has been introduced in the Senate by Mr. BIDEN. The proposed new agency would be organized along the line of the National Transportation Safety Board [NTSB]. The NSB would conduct inquiries into reactor malfunctions or accidents in the same way the NTSB looks into transportation accidents.

The idea for an NSB surfaced in 1977, and interest in the concept was renewed in 1979 in the aftermath of the accident at Three Mile Island when investigations into that unfortunate event uncovered disturbing facts. The investigations showed that prior to March 28, 1979, a series of seemingly modest mishaps at TMI and other Babcock & Wilcox [B&W] reactors had resulted from significant weaknesses in the B&W design. Had these events been properly investigated and if the lessons learned had been acted upon, the March 28 accident would not have occurred. TMI had thus demonstrated the need to assure com-

prehensive inquiries into relatively innocuous reactor malfunctions.

Hal Lewis, a physics professor at the University of California, Santa Barbara and an early and articulate supporter of the NSB concept, proposed that an NSB be established to fulfill the need for improved investigations. Our colleague MICKEY EDWARDS, saw the merits of the concept and he enlisted Professor Lewis to work with him in converting it into a legislative proposal. The result was Mr. EDWARDS' bill, H.R. 5775 in the 96th Congress which I cosponsored.

The underlying rationale for setting up an independent agency was that the NRC, the agency responsible for licensing nuclear facilities and assuring compliance with regulations, could not be fully objective in assessing the causes of reactor malfunctions and accidents. At the same time it seemed to many of our colleagues that the argument for an NSB was not so overwhelming as to warrant setting up a separate agency.

As a compromise between a fully independent agency and reliance for investigations upon NRC line staff, the Commission established the Office for Analysis and Evaluation of Operational Data [OAEOD] within the NRC.

Although the OAEOD has served a useful purpose, potentially dangerous events have continued to occur at operating reactors. In 1985 alone three significant reactor malfunctions occurred. In addition to raising doubt as to the reliability of nuclear powerplant safety systems, these and other post-TMI events have caused concern about the adequacy of the process for extracting and applying the appropriate lessons from them.

Recently in fact the NRC has taken an important step to enhance its scrutiny of reactor incidents. In 1985 the Commission developed an Incident Investigation Program providing for incident investigation teams [IIT's] to investigate important events. IIT's conducted inquiries into the three most serious reactor incidents that occurred last year: Davis Besse in June, San Onofre 1 in November, and Rancho Seco in December.

The IIT inquiries in many respects did a good job of analyzing the 1985 events. The IIT reports, however, left unanswered the important question as to why neither utilities nor the NRC had detected and corrected beforehand the weak links in the safety chain that caused the accidents. The failure to look into such questions suggests a possible conflict of interest: the IIT's, composed of NRC staff members and concerned for the NRC's reputation, might consciously or unconsciously steer their inquiries away from matters indicative of shortcomings in NRC procedures.

The agency envisioned by our bill would be headed by a three person board appointed by the President with advice and consent of the Senate. The Board, as we envision it, would be assisted by a 40 person staff. The agency's annual budget of approximately $5 million, in large measure, would be offset by a reduction in the NRC's appropriation for accident investigation activities.

In sum, I believe that the benefit that would be derived from an independent safety board could well be a significantly decreased likelihood of a serious reactor accident. This benefit would outweigh the modest new costs that might result from setting up a new organizational entity.

Mr. Speaker, the Nuclear Safety Board is a concept deserving serious consideration along with other proposals aimed at increasing the safety and viability of nuclear power.

## LIABILITY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH], is recognized for 60 minutes.

Mr. ROTH. Mr. Speaker, this is a copy of the Philadelphia Inquirer from Friday, March 20, of this year. The headline reads, "$988,000 is awarded in suit over lost psychic power."

The case involves a woman who claims that a CAT scan performed at a university hospital caused her to lose her psychic powers. That is almost $1 million for something she could not even prove she had, in the first place. If she were really psychic, why could she not predict that she would lose her powers before she took the test? Think about it. This is a glaring example of a justice system gone berserk.

Now, let me say, from the start, that I can sympathize with this woman. She underwent this test, allegedly, against her wishes, and she has suffered from headaches and nausea ever since. Maybe she does deserve some compensation. But $1 million?

Is the court system supposed to be John Beresford Tipton? Has a trip to the hospital become equivalent to a trip to the corner grocery store for a lottery ticket?

I requested a special order today to give my colleagues an opportunity to discuss the liability crisis. My interest was drawn to this problem first because of individuals I heard from in my district whom I knew to be very fine businessmen, but were having problems getting insurance. Since those initial contacts with these people in the district, the problem has snowballed until we have a full-fledged crisis affecting almost every working man and women in America. The issue of liability insurance has become the most pressing problem for the American economy today.

Hearings have been held. The problem has been analyzed. But we need action now, before America is sued right out of business.

This is a complex. issue. Blame has been allotted all around. Some critics charge that the liability crisis is a conspiracy cooked up by the insurance industry to gouge the public. The insurance industy responds with charges of greed by fee-hungry trial lawyers whose number has tripled since 1970. Still others feel that it is the result of judges and juries who award large damages to a litigation-crazed American public.

I think it is important to take a look at this question realistically and try to addres it, because we do have a crisis here. Even the U.S. Supreme Court Chief Justice Warren Burger has said there is much too much litigation in America.

None of the charges that we have referred to today help the individuals or the companies that can be forced into bankruptcy by one massive liability suit, nor does the system help the consumer it is supposed to protect. Instead it is the consumer who must indirectly or directly pay for the rise in insurance rates whenever he or she purchases a service or a product.

More and more as the insurance crisis grows you will see "thou shalt not" etched across things we once took for granted. You cannot use a sled in Denver city parks because the parks are uninsured. You cannot have a baby in Monroe County, AL. None of the local obstetricians can get malpractice coverage. You can no longer buy the classic jeep sedan, an automotive best seller for four decades. Again, no insurance.

We have all heard the horror stories. The burglar who fell through a skylight, while robbing a public school, recovered $260,000 in damages plus a continuing income. A man who attempted suicide by throwing himself in front of a New York subway was injured but not killed, and he collected $650,000 from the New York Transit Authority. Does that make sense?

A woman in a phone booth was hit by a drunken driver and received court-ordered compensation not from the drunken driver but from the phone booth manufacturer.

The list reads like Ripley's "Believe It or Not."

In his classic work of 150 years ago, "Democracy in America," Alexis de Tocqueville, stated that almost every argument in the United States ends up in court. I shudder to think what he would say of us today. Alone in the developed world, the United States faces an excess of business, governmental and personal liability and an acute shortage of insurance to cover it.

Is it possible to live in a nation where doctors are expected to be as perfect as God, where children are raised in a perfect society, playing with perfect toys, being educated in perfect schools, and participating in injury-free sports? Of course not.

There is, maybe, no easy solution to this problem, but one thing is sure. With the best of intentions, the scales of a system designed to render justice have been tipped. The balance has moved so far toward the desire to compensate all injuries and all losses that the overall cost to society has become too much. We have reached a point where exposure to liability is becoming almost limitless and incalculable,

making everyone, governments, businesses, and individuals, a victim.

There have been a number of solutions offered. The administration is carefully considering the problem and possible legislative recommendations, and we all welcome that and applaud that. I have discussed this plan with the Secretary of Commerce, the Justice Department and with OMB. I look forward to administration efforts in the form of a legislative initiative.

I say we must enact something before the Congress adjourns this year. We have only so many days left. It is paramount that we act and act swiftly. We will be negligent if we fail to act.

I suggest we start in the field of product liability. This is the grandaddy of all liability issues. It and medical malpractice have been major problems for over a decade, long before the liability crisis became an intopic. Manufacturers are suffering the worst. The product liability problem has become a definite drain on our economy.

The U.S. manufacturing community cannot continue to function with a hodge-podge of irrational laws as its governing standard. The courts are clogged with cases. Insurance has become astoundingly expensive. Businesses are shutting their doors. Soon we will find that some necessary products and services are no longer available at any price.

In the last few years, seven companies have withdrawn from the business of making anaesthesia equipment. Only two remain, because the threat of product liability suits has become so overwhelming. Likewise, there is only one maker of pertussis or whooping cough vaccine in the United States. And even the two remaining are talking about getting out of the business. The vaccine saves thousands of lives every year, but it is not perfectly safe. As a result, the manufacturer has attracted more than 100 lawsuits in the last 3 years amounting to almost $2 billion in claims. And yet the entire U.S. market for vaccine amounts to only $250 million. Can we blame the producers for going out of business?

Let me share with you a notice that is circulating around my home State of Wisconsin. It says:

> Forced out of business. The inability of Federal and State governments to pass legislation to limit liability in product liability claims has made product liability insurance unaffordable. Therefore, after 66 years and 3 generations of serving Wisconsin industries, we are forced to close our doors.

This is the type of scenario that is being repeated throughout the country. The extent of the crisis cannot be measured just in individual anecdotes. Let us talk about some real statistics.

The number of product liability cases filed in Federal courts rose from 1,579 in 1975 to over 10,000 in just last year. The first million-dollar tort verdict was awarded in 1961. By last year, there were over 360 cases settled for $1 million or more. We cannot continue in this direction. Today the cost of our tort system is put at 37 times more than it was in 1950. Have manufactured products become that much more unsafe? No. The American public has become the victim of a system run amuck.

It is no easy matter to conjure up a sensible Federal solution. Product liability cases traditionally have been covered by state laws. A Federal bill must not unduly intrude on the right of State authorities to fashion tort remedies. Also, complex legislation must be resisted. That is what has slowed things down in the other body.

When you try to rewrite 200 years of tort law, you come up with too many new definitions. There is no doubt that interpretation of these concepts will tie up the courts for years. With a solid body of law already fashioned, there is no need to wait for decades to get a clear meaning.

In researching the problem, I have come upon the work of a noted law scholar from Hofstra University, Aaron Twerski. His proposals make good sense and strike a correct balance, in my opinion. It is these concepts that I have incorporated into my bill, H.R. 4425, the Product Liability Uniform Standards Act or, as we call it, PLUS.

The U.S. Supreme Court Justice Oliver Wendell Holmes wrote, "The tendency of the law must always be to narrow the field of uncertainty." That tendency has not been apparent lately. Without certainty and predictability, plaintiffs sue, defendants do not know how to protect themselves, and insurance companies cannot reasonably assess risks and price. My bill is designed to go back to the basics. The system was working reasonably well, not perfectly, but reasonably well, up until a decade ago. It would seem reasonable to enact and moderate and restrained reform, and to wait to see if radical solutions prove necessary. H.R. 4425 follows Justice Holmes' advice, that is, it narrows the field of uncertainty. That is what we want to get at.

My PLUS plan targets the four crises in product liability. First, it would make negligence the sole test for any defective design and failure to warn cases.

□ 1445

It is only logical that the burden of proof should be with the plaintiff. After all, he is the one that is bringing the action. In this way we can narrow the expansion of the law of the past few decades that was typified in such cases as Campbell versus General Motors and Carter versus Johns Manville.

In the first case the California Supreme Court expanded the consumer expectation test so that plaintiffs do not have to prove a product was truly defectively designed. Instead, all they have to do to get standing to sue is to declare the product did not perform as they expected it to perform.

For example, if this podium falls over and injures my foot, I can sue the manufacturer. I do not have to prove that the podium was manufactured without regard to balance. All I have to say is that I did not expect it to injure me.

In Carter versus Johns Manville, the Texas District Court ruled on the issue of using a state of the art defense in failure to warn cases. It said a manufacturer could not argue that it provided no warning because it had not known of the danger at the time of production. Instead, the manufacturer would have to prove that it was not feasible to include a warning on the product. In other words, a manufacturer would have to be a prophet, a soothsayer.

For example, let me take my watch, which is an American-made watch, incidentally. If 20 years from now it is discovered it contains a metal that causes arthritis, I can sue that manufacturer. The manufacturer cannot use as a defense that it was not known and had no scientific evidence at the time that the watch was made that it would cause arthritis. The only argument that he would be allowed to make is that there was no way that he could put an appropriate warning on the directions that such problems might exist in the future—totally unreasonable. I am sure that you will agree that this is absurd.

Right now most State courts hold manufacturers strictly liable, even if, think about it, those manufacturers acted reasonably in designing and marketing their products. Is this fair?

No one should be held liable for failing to design or market products to meet technological or popular standards that evolved after the product was sold.

It is my contention that if all manufacturers were held to a standard of reasonable care, society would be adequately protected. Manufacturers would no longer be held to standards which are impossible to meet.

The second crisis is the rising amount of punitive damage awards. We call them "punies," and they have become the real surprise element in product liability cases. Just when a defendant thinks he has paid all the costs involved with a case, he is hit with an additional cost, because he did not pay fast enough.

A single error in designing and marketing can result in hundreds, if not thousands, of lawsuits against one company. To bring stability, predict-

ability and fairness to punitive damages, we need clearly articulated standards that set forth the kind of irresponsible conduct for which courts will impose punitive damages. In other words, give manufacturers some rules of the road.

Thus, in my legislation, plaintiffs would have to prove by clear and convincing evidence that the defendant was reckless. This is a standard higher than the current preponderance of evidence. It allows punitives to be awarded only when truly deserved.

We must cap the amount of these rising costs, pain and suffering payments, punitive damages, contingency fees. It may be necessary to set specific dollar amounts to stop these runaway costs.

The third issue to address is the overlap in workers' compensation and tort systems. Currently a manufacturer is held liable when a defective product causes injury in the work place and must bear the full cost of the injury. The workers' compensation system which dispenses money for workplace injuries is entitled to recoup any funds it paid out from the ultimate recovery against the manufacturer.

The long and short of this is that manufacturers bear the full brunt of workplace injuries, even though the employer may have contributed to the injury by negligence in the workplace.

To resolve this problem and still limit the liability of the employer, one need only allow the workers' compensation award to be set off against the ultimate judgment.

This solution permits the plaintiff to retain the very same benefits he now enjoys. By shifting part of the cost back to the employer, we encourage safety in the workplace and alleviate the crushing burden on manufacturers.

The fourth crisis is that of the innocent defendant being dragged into suits unnecessarily. Under the present system, in most States wholesalers and retailers are held strictly liable for the sale of defective products, even though there is nothing they can do to discover the defect. In most instances they are in no position to control the product quality. This is not only liability without fault, it is liability without reason.

My solution is that if the manufacturer is sued, the wholesaler and the retailer who have no chance to discover the product defect should be exonerated from liability. This will unclog the courts of unnecessary suits.

My bill provides also for a comprehensive study of the facts concerning damages in product liability litigation.

The fairness and efficiency of our tort system depends upon appropriate damage awards; yet we have no useful damage award data on which to evaluate the efficacy of our legal rules.

If it becomes necessary to cap costs down the line, this study will allow us to make informed decisions. It is time to debunk the myth that any Federal product liability legislation will be anticonsumer. Just the opposite.

Most consumers do not file liability suits, but they pay through the nose for the people who sue and win outlandish awards. Substantial reform can be accomplished without trampling on consumer rights. It is time for even-handed and highly focused legislation favoring no particular industry.

Certainly if I were a trial lawyer I would favor the current system, but I do not shed any tears for attorneys who might lose the advantages of the tort system which operates under the law of the jungle.

Each manufacturer now lives in almost mortal fear of being sued. He can no longer count on being protected by the law. He is now attacked by the law.

The current system has grown expensive and unpredictable. We must send a clear message to the courts that this current madness will end. My legislation does not attempt to rewrite 200 years of tort law. It is designed not to further complicate the system or interfere with the rights of States unduly. It will not confuse judges or juries.

My PLUS plan fairly addresses both the concerns of the injured party and the rights of the manufacturers.

The bill I have introduced speaks with fairness, common sense, and with moderation to the consumer and to the business community alike. A tort system with clearly defined standards will enhance individual responsibility and end the punitive damage sweepstakes.

## SAM HOUSTON AND THE LEGACY OF SAN JACINTO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. WRIGHT] is recognized for 60 minutes.

Mr. WRIGHT. Mr. Speaker, this is a day of significant commemoration.

One hundred and fifty years ago today—April 21, 1836—one of history's most decisive and most fateful military engagements occurred at a place called San Jacinto in Texas.

Because of that stunning victory by a contingent of civilian volunteers under the command of Sam Houston against the army of General Santa Anna, a notorious military despot, Texas won its independence from Mexico and set in motion a train of events which united the western and eastern halves of our Nation into one seemless web of destiny.

It seems appropriate, therefore, that we spend these minutes in the House of Representatives Chamber today thinking of that significant occurrence and of the man who, more than any other, set these events in motion.

Sam Houston, hero of Texas independence, was as unorthodox as a beer party in the church.

He also could be as unexpectedly devout as a prayer in a saloon.

His bold and strangely mottled life is worth reviewing as we celebrate the sesquicentennial year.

The conventional moralist can find a lot wrong in the life of Sam Houston. Like everything else about this remarkable giant, his behavioral shortcomings were king-sized.

He swore profanely. He drank copiously, seemed at one point on the verge of drowning his future in alcohol. The Cherokees had a name for him. They called him "Big Drunk."

Mentioned prominently in his mid-30's as a possible candidate for the Presidency of the United States, Houston threw away a promising political career and resigned the Governorship of Tennessee under a cloud of suspicion which to this day has never been cleared up.

He married three times, once without the benefit of clergy unless you count the Cherokee tribal customs.

He fought duels in violation of the law, and on one occasion was officially censured by the United States House of Respresentatives for thrashing a member on a public street.

But Sam Houston had one redeeming virtue: If his faults were bigger than lifesize, so was his faith.

If his crudeness was colossal, so was his basic integrity.

The structure of his life could withstand numerous flaws in exterior design because it was upheld by two steel girders: An unswerving faith in God and a deep sense of personal honor.

Sam Houston strode into the pages of enduring history on April 21, 1836. He was 43 years of age, and at that point in life a celebrated failure.

On that day, under Houston's command a hastily assembled and only partially trained civilian contingent of fewer than 800 volunteers routed and put to flight the flower and elite of a military empire led by a self-confessed military genius named Antonio Lopez de Santa Anna, who called himself "the Napoleon of the West."

Rarely has a military engagement been so fatefully significant. Because of that triumph at San Jacinto and the events which followed it, the United States was to stretch across the broad expanse of the continent to the Pacific Ocean.

It is worthy of our observance today, not alone because of its historic consequence, but because its lesson is as timely as tomorrow's headline. It is an impelling chapter in the timeless and ever timely story of freedom.

The early Texans, lured by the promise of a new frontier and the pledged faith of a written constitution, had come to establish peaceful colonies in what was then northern Mexico. Yet the pledge of civil liberties and representative government was cynically betrayed by the dictator, Santa Anna. When the colonists sent the mild and genteel Stephen F. Austin to Mexico City to lodge a peaceful complaint, he was seized and thrown in prison where he was forced to languish for months.

So certain was their determination for liberty that the Texans, though they were only a handful, met in a crude, unfinished building at a place called Washington on the Brazos and formally declared their independence on March 2. So uncompromising was their hostility to enslavement that the entire complement of 182 men defending the Alamo under Travis against a siege of perhaps 3,000 troops openly rejected surrender and knowingly elected to die on their feet rather than live on their knees—a dramatic choice without parallel in the history of heroism.

So complete was the duplicity of their oppressor that under a flag of truce he lured another group of the Texans into an open meadow at Goliad and callously slaughtered them in a withering crossfire.

It was against this backdrop that Sam Houston's little band, the last ragged remnant of the army of the infant Republic of Texas, crossed Buffalo Bayou into the San Jacinto prairie over which was to hang the acrid smell of gunpowder and the stench of death.

General Houston did a significant and remarkable thing. He paused before entering the battleground and spoke briefly and simply to his followers. Perhaps not wholly unprecedented, but surely highly unusual in the history of battle, he offered them a choice:

> If there are any here who shrink from the issue, they need not cross the bayou. Some must perish, but victory is as certain as God reigns. Trust in the God of the just and fear not.

They crossed. Houston ordered the bridge behind them burned to seal off escape, and the unequal contest began. The odds seemed insuperable.

But the God of the just was worthy of their trust. The signal results of that direct onslaught reveal the presence of something more than human will. Against the Texas casualties of 8 dead and 27 wounded, the elite corps of the Mexican Army lost 630 killed and 730 prisoners. Santa Anna was among the captured.

The legacy of San Jacinto is the story of the invincible spirit of free men and women when finally aroused to righteous rage by the inevitable excesses of despotism.

San Jacinto does not belong to Texans alone. Present on that day, in Sam Houston's army were men from 14 States and the Territory of Arkansas.

Nor could it be said that Sam Houston belongs to Texas alone.

He was born in Virginia.

He left home at 15 and lived for 3 years with the Cherokees in part of what is now North Carolina.

He achieved his first military recognition against the Creeks under Andrew Jackson in what now is Alabama.

He began and for a time ended his political career in Tennessee.

Thereafter he wandered aimlessly for many months and was reported drunk on a Mississippi River boat.

Finally he turned up in the Oklahoma Indian Territory living again with the Cherokees.

He was sent to Texas on a special mission by President Jackson, one of the few people who never lost faith in him and the one man whom Sam Houston almost idolized. If Sam Houston is the hero of many of us in Texas today, Andrew Jackson was his hero.

When Jackson lay dying at the Hermitage, Houston took his wife and small son in a red horse-drawn coach over the primitive roads and trackless prairies from Austin to Nashville, TN, in a sleepless, headlong race against death. He wanted to be at the bedside of his mentor.

He arrived, only hours too late, to learn that some of the last words his hero had spoken were of him and of his efforts in bringing Texas into the Union.

And Houston whispered to his child:

> Always try to remember, my son, that you have looked upon the face of Andrew Jackson.

Such was his devotion.

Houston was, in fact, during his life a citizen of four nations:

The United States;

The Cherokee Nation which he served for a time as its Ambassador in Washington;

The Republic of Mexico, of which he became a citizen upon going to Texas; and the Republic of Texas which he served as President.

Through it all, strangely enough, his undivided loyalty was to the United States, and statehood the dynamic dream he shared all along with Andrew Jackson.

Interestingly enough, Sam Houston was never a citizen of the Confederacy. With all his heart, he believed slavery to be wrong and secession to be treason. He vacated the Governorship of Texas rather than swear allegiance to an entity which made war upon his country.

Of one State legislator who pressed both for secession and for impeachment proceedings against him, Houston said: "He has every attribute of a dog, except loyalty."

Ironically in light of his posthumous popularity, Sam Houston died reviled and rejected by many in the State which claims him as its patron saint.

So unpopular were his views against secession that city councils passed ordinances denying him the right to speak. On at least one occasion when he attempted to do so, a rock thrown by a faceless member of an unreasoning mob struck the old man in the face.

Twice Governor—of two different States—he twice relinquished the position rather than compromise a conviction.

He was no more daunted by public disfavor than he was by physical danger. Sam Houston held personal honor more valuable than public office.

The decision which caused him to leave the Tennessee Governor's chair, and the State itself, involved his young first wife, Eliza Allen, his bride of only a few weeks, and her inability—for whatever reason—to live with him.

Therein lies a mystery which has never been unriddled. Nor will it be. The nearest thing to an explanation appears in a personal note which Houston wrote, not for publication, but to the young lady's father. It reads in part as follows:

> I have been satisfied and believe her virtuous, as I have assured her. If mortal man had dared to charge my wife, or say ought against her virtue, I would have slain him. That I have and do love Eliza, none can doubt, and that I have ever treated her with affection, she will admit. That she is the only earthy object dear to me God will bear me witness—

And then, only this:

> * * * she was cold to me, and I thought she did not love me * * *.

To the public, not even that much. Ugly rumors grew. While his political well-wishers pleaded with him to make a statement—some kind of statement—Houston steadfastly refused. He would say only these three words: "She is blameless."

Importuned to consider his own reputation and his future, Houston replied with steely firmness: "Whatever the price of silence, I will pay it."

Rather than discuss the matter, he tendered his resignation as Governor.

As Houston prepared to leave Tennessee and the Governor's office—still without any explanation—a noisy rabble gathered outside his hotel. Someone posted a ribald placard, unsigned, challenging his honor.

Upon learning of this, Houston put on his coat and hat, walked out onto the porch and faced the mob.

Speaking slowly and very deliberately, he said:

> I am given to understand that someone has taken it upon himself to placard me. . . I

invite him—or them—who are responsible for this denunciation to come forward to me now and make it good.

Dead silence. Long minutes ticked by as he stood there, his eyes going over the crowd face by face. He spoke once more:

I give notice, to each and every one of you, that though I am leaving this city, if any wretch utters so much as a whisper against Mrs. Houston, I will return and write the libel in his heart's blood!

He let that sink in . . . descended the stairs, and walked unhurriedly toward the steamboat landing, as men hastened to get out of his way.

This story has a sequel, for which I am indebted to a former congressional colleague, the late Percy Priest of Nashville.

Upon leaving Tennessee, Sam Houston left a letter with a close and trusted friend. His clear instruction was that the seal on the letter was never to be broken unless it should be necessary to defend the honor of his young wife.

Apparently that was never necessary. Nobody spoke blame against Eliza. Only against Sam.

The letter was passed down through at least three generations, the seal still unbroken.

Finally, in the 1930's—more than a full century having passed—it was formally agreed by the then possessor that, in the interest of history, the seal at last should be broken and the letter read.

A date was set for a public opening of the document. Historical societies and the State of Tennessee were to be represented. It was to be an official ceremony. Percy Priest, then a newspaper reporter, was to cover it for the Nashville Banner.

But the ceremony never took place. Three days before the date agreed upon, lightning struck the house in which the still-sealed letter was encased. The house, and everything in it, burned to the ground.

One other little-remembered episode in the life of Sam Houston seems worthy of a fleeting comment.

After he left Tennessee and before he went to Texas—during the period when he represented the Cherokee Nation in Washington as its Ambassador—a Representative from Ohio named William Stanberry, in the course of an attack upon the Jackson administration on the floor of the House, implied that Houston and Jackson were involved in some underhanded conflict of interest over contracts to supply Indian nations.

Jackson took it in stride, but Houston was outraged. He called at the door of the House Chamber for Stanberry, who declined to accept his note and refused to see him.

Some days later, Houston encountered the Congressman on Pennsylvania Avenue and demanded satisfaction. Stanberry pulled a pistol, but it misfired. Houston manhandled him rather brutally.

Stanberry, invoking the law of congressional immunity, demanded that Houston be tried and punished by the House. Houston appeared in his own defense. He was both humble and contrite. Here is part of what he said:

If, when deeply wronged, I have on impulse violated one of the laws of my country or trespassed the prerogatives of the House, I am willing to be held to my responsibility * * *.

I stand before this House, branded as a man of broken fortune and blasted reputation. Never can I forget that reputation, however limited, is the high boon of heaven. Though the plowshare of ruin has been driven over me and laid waste my brightest hopes, I have only to say, with the poet Byron:

"I seek no sympathies, nor need;
The thorns which I have reaped are of the tree
I planted; they have torn me and I bleed."

And so, Sam Houston—former Congressman and former Governor, once mentioned as a bright prospect for the Presidency, on May 9, 1832 was officially censured by the U.S. House of Representatives.

But you can go back in the forerunner of the CONGRESSIONAL RECORD and read the official reprimand spoken by Speaker Andrew Stevenson. It reads more like a commendation.

The "reprimand" contains 123 words of undiluted praise for Houston, followed by a single sentence, 30 words of censure, in which the Speaker simply said:

I forebear to say more, General Houston, than to pronounce the judgment of this House, which is that you be reprimanded by the Speaker—and I do reprimand you accordingly.

All this happended before Texas, before San Jacinto, before his Presidency of the Republic, before his brilliant battle for Statehood, his later service in the U.S. Senate and his politically courageous though unavailing fight to help save the Union. These things came later, catapulting this strange, hot-blooded giant into a sort of immortality.

A motto for his life might well be the words he spoke on the eve of the battle of San Jacinto: "Trust in the God of the just, and fear not."

His faults were big, but his faith was bigger.

And perhaps in that there's hope for lesser mortals, even for you and me.

□ 1500

Mr. Speaker, I should like to yield, if I may, to my distinguished colleague, the gentleman from San Antonio, HENRY GONZALEZ.

Mr. GONZALEZ. I thank the distinguished majority leader and fellow Texan, and in our State well known as a historian and orator and leading political figure, and thank him for invoking on this very significant day in Texas, April 21, which we know as San Jacinto Day, because it was there at that place that is designated as the San Jacinto battlefield that Sam Houston and the forces with him successfully defeated the rather larger or the host of Santa Anna's army.

I rise because I think that all through my childhood and emergence into college and young manhood, I was aware of another aspect, another interpretation of this historical development, in which a substantial contingent of Tejanos or, in the case of San Antonio, Bexarenos, were involved in this struggle.

□ 1510

But in teaching the history to us in the public school, we learned it as a fight between what we call today the Anglo and the Mexican. The truth is that the struggle was more complex, and it involved a cross-sectional participation on the part of many longtime and native Texas citizens who happened to be of what we call today Hispanic extraction.

For example, in the charge at the Bayou against Santa Anna, one of those leading the charge alongside of Sam Houston was Juan Nepumecendo Sequin who very successfully had been involved in the initial struggles against the Government of Mexico. The battle flag over the Alamo was a red, white, and green flag with the numerals 1824 in the white middle. 1824 meant the Constitution of Mexico of 1824, which had granted quite a bit of autonomy to the legislatures of Coahuila in Texas which also included rather liberal clauses for the first time, particularly for the colonists that had come from the States of Missouri, Alabama, Tennessee, Virginia, and the United States then. But we must evoke that period of time by recalling that Mexico had an official State religion which was the Catholic Church. It was also a time in which any person wanting to have title or ownership of land, whether they were colonists from outside of the Mexican territory or Mexican citizens, they had to do two things. They had to proclaim their citizenship to Mexico and the Catholic faith. Otherwise, they were denied title to real property. So naturally, with the influx of the colonists from the English-speaking section of the United States, where this was an abhorrent tradition, where it was taken for granted that one of the basic liberties was separation of church and State, this was a natural ground for immediate contention.

The Constitution of 1824 was suspended by General Santa Anna, so that General Santa Anna faced three simultaneous revolutionary movements, the first two having originated in the center of Mexico, the second one in northern Mexico in which my

great grandfather was the leader in revolting against General Santa Anna's suspension of the Constitution of 1824, because members of the family had been at various times members of the legislature of Coahuila in Texas. So that Santa Anna put down those two movements and he was able to regroup, and then emerge into Texas and take on what we call the Texans today.

But I think we ought to know that in the roles of those fallen at the Alamo, of those who fought and fell at San Jacinto, you have quite a good sprinkling of Hispanic names. You have the Garzas, you have the Menas, you have the Gutierrez and names such as those who were identified in that struggle, just like my great grandfather was identified in northern Mexico in the northern Mexican revolution against Santa Anna.

In Mexican history, Santa Anna is looked upon as a most unpopular ruler. In fact, for years and years, he was called the Great Betrayer in Mexico. And I think that we should never forget that there was this admixture or joinder of peoples that made it possible for Texas to first throw off a tyrannical yoke, and second, gain its independence, exist as a republic for 10 years, and coexist as such with such names as Jose Antonio Navarro, for example, who was inextricably linked with the Texas independence decade, and with Gen. Sam Houston.

So I would just add this bit because I think that as we go into the future, this portion of the whole story of the history of that struggle will emerge more and more into sight, and I want to thank my highly esteemed and most-loved leader from Texas, Mr. WRIGHT, for taking time to bring to the attention of the Nation that April 21 is not only a Texas holiday, but it is indeed a national holiday.

Mr. WRIGHT. I thank the distinguished gentleman from San Antonio, TX, such a scholar on Texas history, and on history itself, for his truly significant contribution to this discussion today. I think it is worth observing that there are many parallel currents that have run through the course of the lives of our two nations, so close, so near neighbors, with different traditions and cultural backgrounds, but yet seeking so many of the same fundamental objectives.

If you were to read the statements of Padre Miguel Hidalgo, you will find him influenced to a degree by George Washington and Thomas Jefferson. If you were to read the statements of either Abraham Lincoln or Benito Juarez, who were contemporaries, you will find that they fought the same fights, opposed the same foes, and suffered many of the same difficulties, communicated with one another and were friends together. Francisco Manero believed in many of the same things Franklin Roosevelt believed, and so in these two countries they have moved together, side by side, and we have a true comraderie and friendship that I think really needs to be observed today, because what we commemorate today was not a struggle of Anglos against Hispanics, but this survival of freedom.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding. I think all Texans everywhere are grateful to the majority leader for taking out this time on this day of some significance for freedom everywhere. I know that many of my Texas colleagues will have a lot to say, as has already been said, about the significance of today.

I would take 1 minute just to make three observations. First as my good friend from San Antonio, Mr. GONZALEZ, said that the Texans that fought for freedom on this day came from everywhere, all over the world, including a large contingent of tejanos from Mexico. They were all at the time Mexican citizens. They came from all over Mexico, all over the United States, and from countries all over the world.

But what they had in common was a yen for freedom, for independence, for being able to live their own lives.

The gentleman from San Antonio has discussed Mr. Sequin, Vice President of the Republic of Texas. Newly, the interim Vice President, newly declared was Lorenzo de la Savalas, the Vice President. Indeed, the tejanos had perhaps more to risk than the Anglos in the Army, because shortly before the battle, General Santa Anna had pledged to hang Lorenzo de la Savalas, and presumably the other tejanoes in the Army, but as the other heroes of the day, they came from all over the world.

One hero stands out, a man named Erastis Smith, also known as "Deaf Smith." Deaf Smith reminds us, and he was called "Deaf Smith" because he was deaf, a hero of the Texas Revolution, quite a significant figure in that day, and elsewhere in the frontier, he reminds us that when you are going to commit yourself, commit yourself all the way, because under an order of General Houston, Deaf Smith went out that day and cut the bridge over Vinces Bayou, and then came back waving his rifle and announced to the advancing Texas Army that the bridge over Vinces Bayou had been cut and Santa Anna's retreat had been cut off. But it also cut off the retreat of the Texas Army and the Texas Army at that time was outnumbered approximately 2 to 1, and the Texans knew that. So we began the battle with an all-out commitment to win it.

Third, it seems to me as we look at all of the correct military and all of the military and political decisions that Sam Houston made leading up to the Battle of San Jacinto, one stands out, and that was Gen. Sam Houston, keeping his own counsel, directing the course of that war for independence chose the time of the battle at a time of his own choosing. Regardless of the President of Texas sending messages to please take the battle now, and others were giving different advice, but Sam Houston waited until the time was precisely right and then he attacked. He attacked at a time in which he was outnumbered 2 to 1, but he knew that reinforcements were on the way. He chose the time that was in his own best interest, and he did not wait.

It is said that during the course of the retreat across Texas, where he engaged and unengaged from Santa Anna's army all the way across Texas that many would urge him to make the showdown right then, and Sam Houston would not make that showdown until the time was correct. He would not do anything precipitously. He did retreat across Texas, many of his army being disgruntled. The legend has it, and it is true, the legend has it that shortly after the battle of San Jacinto, across this retreat, several of General Houston's officers became so disgruntled that they began to sort of organize their own little miniarmy in which they were going to stand and fight as they put it. Gen. Sam Houston dug two graves and announced that the first of the two graves was for the first officer that recruited a soldier, and the second grave was for the first soldier that chose to mutiny. Thus, there was no mutiny within the ranks of Gen. Sam Houston who chose the time that was in his best interest, and the best interests of his army. He surprised the army of Santa Anna. He attacked at the right time.

The rest is written in the history of free men, and I thank the gentleman for taking the time, and for yielding this time to me.

Mr. WRIGHT. I thank the gentleman from Texas [Mr. BARTLETT] for that really interesting contribution to our discussion today. I think he has made a significant addition.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to my distinguished friend, the gentleman from Texas, the city of Houston, Mr. PICKLE.

Mr. PICKLE. Mr. Speaker, the battle of San Jacinto is often referred to as one of the decisive battles of the world.

That is not just "big Texas talk," either.

There is reason behind this claim. Because for Texas to win its independence from Mexico meant that the United States would someday be able to fulfill its dream of expansion to the west coast.

In addition, this established the Rio Grande River as the Nation's southern boundary and ended any expansionist dreams of other nations to move into the southwest and beyond.

If there was one historic development that allowed the United States to fulfill the manifest destiny that President James Polk spoke of, it was the victory of Sam Houston over General Santa Anna.

It was a case of democracy over dictatorship, but it also opened the door to the continued westward expansion by the United States.

I don't think there has been a victory on the American Continent that required more bravery by a group of people who endured great hardships and deprivation—with the possible exception of Washington's troops at Valley Forge.

These people were independent minded and fiercely patriotic citizens who dedicated themselves to forming an independent government. And they succeeded against unbelievable odds. Perhaps this is the source of that famous Texas can do attitude.

I don't know of any other State that fought a nation to gain its independence. It was a home grown revolution by men and women who pledged to establish their own free government. They did and the Republic of Texas was born. Texas is one of the few States that was an independent nation prior to entering the Union.

When our fight was going on against Mexico, the Texans were also joined by a few native Texans—persons of Mexican descent. Two of them were signers of the Declaration of Independence and several of them were at the battle of San Jacinto and later helped to form our Government.

And, now, 150 years later, a large portion of our population are of Mexican lineage. They represent a most progressive and enlightened segment of our State. Today, we have several Members of this Congress, such as the great HENRY B. GONZALEZ, who have Hispanic blood in their veins.

And, so, Mr. Chairman, on this San Jacinto Day, I hope all Americans will join with we Texans in this historic celebration, for while it is primarily a Texas celebration, it is an event in history that changed the course of the history of the entire country.

□ 1525

Thank you, Mr. Leader, for yielding me the time.

Mr. WRIGHT. As always, the contribution by the distinguished gentleman from Texas has been enlightening and delightful. I thank the gentleman for his contribution.

I would like to yield at this time to our distinguished colleague from west Texas, Mr. COMBEST.

Mr. COMBEST. Mr. Speaker, 150 years ago today, on a strip of land 21 miles east of the city that now bears his name, Gen. Sam Houston led approximately 900 soldiers to victory over Mexican forces led by General Antonio Lopez de Santa Anna.

In less than 20 minutes—with outraged cries of "Remember the Alamo" and "Remember Goliad"—the Battle of San Jacinto was over and Texas became a free, sovereign, and independent republic.

Today we celebrate the 150th anniversary of this historic battle and our independence from Mexico and remember the 927 farmers and shopkeepers who, although outnumbered, stood together to defend their land, their families, and their future.

Historians note that the Battle of San Jacinto not only won the people of Texas their independence, but changed the face of America. The significance of the historic event is best stated by the engraved words of the masonry monument at the San Jacinto Battleground State Historical Park:

> The freedom of Texas from Mexico won here led to annexation and to the Mexican War, resulting in the acquisition by the United States of Texas, New Mexico, Arizona, Nevada, California, Utah, and parts of Colorado, Wyoming, Kansas, and Oklahoma. Almost one-third of the present area of the American Nation, nearly a million square miles of territory, changed sovereignty.

Today, Mr. Speaker, we Texans celebrate our independence and reaffirm our commitment to the ideals of freedom and democracy.

As we look to the next 150 years, we set the vision of the future before us as a goal to be met with the same courage and determination as evidence by the brave Texans we remember today.

Again, I thank the majority leader, and I consider it an honor to be able to participate with other Texans this very historical day in our history.

Mr. WRIGHT. I thank the gentleman from Lubbock for his great contribution.

I yield to my very good friend, whose district adjoins mine on the west, the gentleman from Stamford, TX, [Mr. STENHOLM.]

Mr. STENHOLM. Mr. Speaker, it is with great pride that I rise today as an American, but particularly as a Texan, to pay tribute to a great occasion that took place 150 years ago today in Texas.

It was on April 21, 1836, that Texas won its independence at the Battle of San Jacinto. The battle lasted only 18 minutes, but in that time, the history of the world was changed forever.

For the past century and a half, Texas has drawn the awe, amazement, and admiration of people around the world. Why? Because it has been at the forefront of events that molded our lives. From the discovery of great oil fields to the exploration of space, Texas has played an integral part in the development of our Nation and the modern world. The past 150 years of Texas history could even fill the Texas-sized Library of Congress with facts, figures, and folk tales. It is a colorful and historical past that any State, even nation, would envy.

And it all began 150 years ago today in a marshy area near modern day Houston. The Battle of San Jacinto was the final push by the charging Texans, who had been inspired by the cry, "Remember the Alamo." When the skirmish was over, those brave pioneers had won independence from Mexico.

When Texas established itself as the Republic of Texas it was a huge nation. It stretched into territories which are now New Mexico, Oklahoma, Kansas, Colorado, and Wyoming. For 10 years it existed as an independent country, one which fulfilled the many dreams of people who came from other parts of the United States and the world, hoping to build a bigger and better place to live.

They colonized the wilderness, established huge ranches and built new cities. They brought new meaning to the word pioneers. In time, all of America would benefit from Texas' greatness as it officially joined the Union on December 29, 1845.

It is easy for me to expound on the greatness of the Lone Star State. As a native, I was indoctrinated into the bigness and boldness of it as a child. Not everyone has the same ideas about our State. For some strange reason, non-Texans think we brag and boast. Can this be so? I don't think it possible for anyone to say too much about Texas.

But Willie Nelson probably hit the nail on the head when he once said, "If you're from Texas, you can't explain it. And if you're not from Texas, you can't understand it."

What other State in the continental United States—Texans still don't recognize Alaska—can boast of its immense size of 275,416 square miles. Texas extends 801 miles from north to south and another 773 miles from east to west. It is not only big in size, but it is big in spirit.

It is a well-known fact that 15 of the 50 States can fit inside Texas, and we'd still have an extra 1,000 square miles left over to throw a barbecue.

What other State has, in its statehood agreement, the right to break up into five States and remain in the

United States. Such a move would give Texas 10 seats in the Senate. That annexation agreement also gave Texas other special treatment. It made Texas the only State with no public lands within its boundary. It also granted that the mighty Texas flag could be flown at the same level as Old Glory. Seeing both banners side by side is a beautiful sight to behold.

Few States can claim mountains, beaches, deserts, forests, plains, and coastal lands all within a single boundary.

I will close this homage to Texas by a story that might help some of you understand how we feel about our State. It has to do with the creation of Texas.

On the third day when He was creating the Earth, it is said that He used most of the day trying to beautify the other sections of America. He spent so much time in those areas, that by the time He came to what would be known as Texas, it was sunset. He then decided He had done enough for the day and would finish later.

When He came back the next morning, He saw the land had hardened and dried. He decided that instead of creating land that people would love, He would create people who would love the land.

We Texans do love our land. We love our State and our country. Texas is a microcosm of America. It is a place where, with some work and a lot of desire, you can make your dream come true.

Thank you, Mr. Speaker, for allowing us this opportunity to share the Texas experience with the rest of America. Long live Texas.

Mr. WRIGHT. I thank the gentleman for that stirring bit of homage to our native State, and I know all Texans everywhere will appreciate it, and others may enjoy it.

Mr. COLEMAN of Texas. Mr. Speaker, I rise today with pride to salute the Texas sesquecentennial, the 150th anniversary of the independence of Texas. It was on this day in 1836 that the decisive battle was won for our independence, which in turn started us on the long road that has led us to becoming the great State we are today.

Texas, joined the United States of America while a free and sovereign nation itself. Unlike many others, we joined this great Union out of choice, not by force, and I for one believe that these circumstances have made us stronger as a State and more determined as a nation.

Although the victory at San Jacinto was a great victory for freedom, the battle was not between two peoples, but rather between one people—the Texans—and a dictator, Santa Anna. It is interesting to note that the Mexican people themselves later overthrew the same dictator, taking another step in their own quest for democracy and independence as a people that culminated in their great revolution earlier in this century.

Mr. Speaker, the great victory at San Jacinto serves as a symbol of what Texas is all about: perseverence against great odds that ultimately leads to triumph; the courage to stand up for what we believe in; to not back down in the face of opposition; and the determination to do what is right regardless of the consequences.

Mr. Speaker, today is not just a celebration of Texas by Texans. It is a reaffirmation of the desires of freedom-loving and independent-seeking people everywhere all over the world. It symbolizes the continual theme of Western civilization since the Renaissance and the Reformation, which is the ongoing struggle of the ordinary man and woman against the forces of dictatorship and oppression. The American victory at Yorktown institutionalized, for the first time, the revolutionary concept that the modern state could be run by democracy. The brave men and women at the Alamo and then at San Jacinto helped extend that spirit of democracy and independence to Texas, and I join my colleagues in this most fitting tribute to those first original Texans who fought, died and triumphed at San Jancinto.

## GENERAL LEAVE

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1535

## DON'T GIVE UP ON AG EXPORTS YET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 60 minutes.

Mr. BEREUTER. Mr. Speaker, before I begin, I not only appreciate the comments of the gentleman from Texas [Mr. STENHOLM], I enjoyed them also, and the comments of all of our Texas colleagues concerning the important day which they are commemorating today. I would say that it is probably fortunate that Nebraska was split up into other States, or Texas would not be second in size but third.

But they have a heart that is as big as the rest of the country combined, at times it is very apparent, and we join them in the special celebrations under way now in their State.

The subject of my special order today is agriculture exports.

Mr. Speaker, as I travel around my district speaking with farmers and other members of the agricultural community, I hear many questions concerning the American agricultural export sector. Of the many questions put to me by these constituents, there is one recurring theme concerning agricultural exports: specifically, what we can do to make exports the engine of growth for American agriculture they were in the 1970's? With fully 40 percent of our agricultural production devoted to export markets, the kind of substantial decline in exports we have experienced in recent years has a major impact on farm communities.

Because of numerous negative developments in agricultural exports in recent years, some members of the agricultural community believe that the game is up, that we should forget about exports, cut back production, and concern ourselves only with the domestic market. I respect the people with these opinions, and, given the hard knocks they have experienced lately, can understand how tempting it is for farmers to want to turn inward, to produce only for the domestic market. But I don't believe this is the way to go. In fact, it would be disastrous. World trade is growing and agriculture will be no exception. The world's foremost agricultural producer, the United States, cannot simply opt out of this part of the global economy. More to the point, I believe that for American farmers truly to prosper they must also export. Having said this, I concede that talking about increasing exports is a good deal easier than doing something about it. My comments here today are meant to be the information base and stimulus to do something positive to sustain and increase our agricultural exports.

Looking back at the 1970's, it is hard to resist describing them as the "golden age of American agricultural exports." Rapid world economic growth, easy credit, relatively, a much lower dollar, and food and agricultural policies in developing countries, and centrally planned economies operating together had the effect of emphasizing imports combined to strengthen demand for U.S. agricultural products. Exports continued to grow through the 1970's, apparently with no end in sight.

But there was an end to these good times, and it came as an abrupt shock. After peaking in 1981 at $44 billion, U.S. agricultural exports began to fall and have fallen every year since, to $31 billion last year. In a bewildering about-face from the 1970's, the 1980's brought global recession in place of growth; easy credit gave way to soaring interest rates. Lesser developed countries, wracked by debt problems, simply stopped buying. In Latin America alone, United States agricultural exports dropped by nearly $2 billion from 1981 to 1982, with Mexico by itself accounting for more than half the drop. An overly strong dollar, in tandem with high domestic support prices, established commodity floor prices which enabled competitors to undercut us in world markets. Spurred by need and enabled by technology, developing countries increased production to undreamed of levels. Policy in

the European Economic Community, Canada, Brazil, Argentina, and Australia emphasized exports. The technological advantage we had assumed was ours, almost by divine right, began to shrink, as other nations' yields began to approach and—in some cases—to surpass our own. Typically, exports did not rate very high on our national agenda, especially if they came into conflict with so-called national security interests. The best example of this was the Carter grain embargo of the Soviet Union; its only dubious "accomplishment" was to cast great doubt about the United States as a reliable supplier.

With hindsight it is easy to see what went wrong. Some of the macroeconomic factors which triggered this setback were beyond our control. Others represent the kind of convergence of things which escape detection at the time but later can be determined to have together constituted a watershed occurrence. Errors of judgment also play a role in the problems that occurred. It is clear in retrospect, too, that some mistakes were made at the individual farm level. Farmers became convinced that export growth would continue on an uninterrupted basis. Encouraged by governments and lenders, they borrowed heavily to buy overpriced land. As a nation we concluded that overpopulation in the Third World or bad weather in the Soviet Union or some other phenomenon would always conveniently occur to take our production surpluses, and gratefully take them at that. Well now we know differently, and now we have learned some bitter lessons. The question is, What happens next?

At least theoretically, there is some cause for optimism. Some of the factors which led to the export downturn are being mitigated. The dollar has weakened considerably and apparently may slide further. Lower price supports mandated by the 1985 farm bill will make U.S. commodities more competitive abroad. Growth in real per capita GNP in developing countries will be about one-half of 1 percent this year, marked improvement over the stagnant or even negative growth experienced earlier this decade. Lower interest rates will ease the financial crunch felt by many importing nations. And lower oil prices hurt some but help others and, on balance, should be a net stimulant to demand.

Unfortunately this is not going to be enough. Overhanging these developments which normally would work to stimulate our exports is an increase in world food production which in retrospect can only be called astounding. Amazingly, world food production is now growing faster than population. Last year was the fourth year out of the last 5 in which world food production outstripped consumption. In the opinion of some experts, we have entered an era of permanent grain surpluses, a buyers' market for grain. The headline of a recent Washington Post article on this subject was, "The World Doesn't Need Our Farmers." I don't agree, but there is some rhetorical impact in that statement which makes a few valid related points. The phrase which probably best sums up this new reality was the title of a Foreign Affairs article by Barbara Insel last year, "A World Awash in Grain".

Let us examine some of the facts. World production of wheat and feed grains has grown 20 percent since 1974 and 100 percent since 1964. There are two principal driving forces behind these developments. First and most important is technology, which has led to a 60-percent increase in average yields. Second, governments apparently have decided they can no longer afford—either strategically or economically—to depend on imported food and have instituted policy reforms designed to increase agricultural output. A few examples will illustrate this new reality:

In the People's Republic of China [PRC], introduction of market incentives has produced a 15-percent expansion in rice production and a 40 percent expansion in wheat production just since 1982. Wheat production grew from 41 million metric tons [mmt] in 1977 to 85 mmt in 1984 and last year China's wheat crop was projected to be the world's largest. Befiting its new status as an exporter, the People's Republic of China has opened farm sales offices in Tokyo and other Asian capitals.

India is now effectively self-sufficient, thanks largely to the Green Revolution, and Pakistan nearly so.

Argentine wheat production has nearly doubled; Thailand's feed grain production has nearly tripled; and both Canada and Australia have had major output increases.

Indonesia has become self-sufficient in rice, from its role as a major importer, while Japan, Taiwan, and the Philippines have rice surpluses. It has been envisioned that within 5 to 10 years the entire East Asian market will be served primarily by exports from Asian producers.

I need mention only briefly the European Economic Community, whose dramatic reversal from net importer to net exporter for a whole range of agricultural commodities has been well documented.

As the number of exporting nations has grown, the grain importing market has become increasingly concentrated. In this regard it is also noteworthy that not only have we been passed in total output in some crops but in yield per hectare as well. U.S. wheat production in 1984 was 70 mmt, with an average yield of 2.57 tons per hectare. China produced 85 mmt, with a yield of 2.90 tons and the EEC produced 75 mmt, with a yield of 5.52 tons. European feed grain production has reached 5.24 tons per hectare, which approaches U.S. levels. Brazilian yields in soybeans and corn often exceed those in the United States.

High technology agriculture is producing more food per capita nearly everywhere in the world. Technology, in the words of one expert, makes it possible to grow two stalks of grain where only one grew before. Irrigation; new seeds, hybrids and plant varieties; and more and better use of fertilizers and insecticides have all played a role. This technology is only going to get better. The system of agricultural research institutions for and also in the Third World, which produced "miracle wheat and rice" hold great promise for further breakthroughs in crops and areas which so far have eluded success. These crops include sorghum and casava in Africa. Finally, it must be emphasized, biotechnology may ultimately add more to farm productivity than any other development.

As if all these technology-fired developments weren't enough, there is yet another important factor, and that is the vast expanses of land which await the plow. The nations of Canada, Brazil, Australia, and, especially, Argentina, which is said to have the equivalent of five Nebraskas ready for conversion from rangeland to cropland if needed, part of it some of the very richest soil in the world, stand out in this regard. Technology also means that previously unused soils can now be cultivated. Brazil is opening up 50 million hectares of acid soils through use of lime and phosphate. New ways are being found to farm the world's 300 million hectares of vertisol soils. Much of this wasn't cropped at all in the past; some is now being triple-cropped. Australia has developed the ley system, which increases the productivity of drylands 30 to 40 percent and is being tried in the millions of semi-arid hectares of Spain, Portugal, and North Africa as well. Throughout the world short-season hybrids are pushing the Corn Belt 250 miles further North.

Taken as a whole, these facts, even discounted for the almost inevitably built-in optimism, have got to be pretty sobering for American farmers who had looked for their salvation to increased exports. Now before going any further, I want to make clear that we as a nation—the American people generally and the American farmer specifically—do not consider this increased global production to be a negative development, only a condition causing immediate and detrimental consequences for our agricultural and export sectors. There is no doubt that its consequences for our farm sector are negative, sometimes profoundly so. But I think most U.S. farmers, if given

the opportunity to reverse all these gains in world food production so as to increase our exports, would solidly decline. There is no moral way we can be in the position of wishing for calamity or chronic underproduction so as to maximize our sales abroad. In the medium and long-run American prosperity certainly cannot be founded on the misfortune of others.

It seems, then, that we are faced with a body of expert opinion which tells us to forget it regarding increased agricultural exports. A phrase often used to describe a situation in which expert opinion becomes widely accepted is conventional wisdom. Is there any alternative to simply accepting this conventional wisdom? Well I am not going to say these experts are all wrong, because I do not believe it. But before all of us from the agricultural community decide simply to throw in the towel, I think we owe it to ourselves to take another hard look at the situation.

The best single, commonsense reason I can think of for being skeptical of a conventional wisdom which says that export markets are gone forever is that the conventional wisdom is often proven to be wrong. There are many examples, but the most appropriate to cite here is the conventional wisdom of the late 1970's which was that the world could not feed itself and would be dependent on American surpluses into the distant future. I can remember, as I'm sure you can, the debates in this country about 10 years ago over green power—that is to say, over the morality of using our surplus food as a weapon. There was just no doubt in our minds that we had the food and that most of the rest of the world did not. Even as late as 1980, in its report "Global 2000," the U.S. Government predicted vast increases in world food demand, which could only be supplied by the developed countries. And now look, only a relatively very short time later, how drastically things have changed. The error in predictions would be humorous if the consequences weren't so grave for American agriculture.

I for one, however, do not believe the situation is hopeless. For one thing, despite a drop of more than 25 percent, we still export more than $30 billion worth of farm commodities a year. Comparatively this total is down, but by any objective reckoning, it is still of enormous magnitude. Economic developments already well underway, such as a falling dollar, lower oil prices, and the implementation of lower price supports, in combination with an improving world economy, will make us more competitive than we recently have been, even if we do nothing else. But this is a passive approach and will help only marginally. What we must do is go on the offensive. For too long we have given our export customers the impression that they could buy our commodities or not—that it was pretty much all the same to us either way they decided. We were giving the impression that we weren't really too serious in competing for markets. We have not always aggressively promoted and marketed our goods. While markets are not as strong as they once were, there is still additional potential for us if we act and become more competitive. We can no longer in effect, wait for customers to come to us. We must go to them. We must compete aggressively. In the past agriculture has carried us. Now the U.S. Government must do more to help export our agricultural commodities, and by all means, stop damaging our export potential by its policies, actions, or inaction.

Agricultural trade, and indeed all trade, must be given more prominence in the formulation of national economic policy. For starters, we may need an integrated agricultural trade policy coordinating mechanism at the highest level of our Government, or at a minimum, cooperation and coordination that gives such a result. Beyond that, I have in mind attitudinal changes which would mean no more unilateral and selective embargoes; exemptions of agricultural exports from cargo preference requirements; expansion of export credit programs; changing International Trade Commission requirements to reflect the special needs of agriculture, which are different from industry; and aggressive countering of unfair trade practices. Above all, we must make better use of the tools already at our disposal, for example, Export-PIK and GSM 102, and Section 301 actions. We need to get these programs working as Congress intended and then to improve them, by first, making repayment terms more flexible, by second, expanding the commodities sold under Export-PIK and by third, making all possible nations eligible for such export enhancement programs. Another step which undoubtedly would improve our competitive position would be to deliver the best quality grain abroad for the price paid. If all the parties that have an interest in improving the quality of delivered grain don't give the Congress their best advice soon—I would say by the end of 1986—then the Congress should, in my judgment, proceed to make any necessary changes with the best information available.

Now let's turn to the subject of GATT and the next round of multilateral trade negotiations which begin later this year. For 40 years the Federal Government of this country has, it often seemed, acted as though agriculture should take a back seat to other industries when it comes to the drafting of the international rules governing trade. One high USDA official has characterized this as benign neglect. It may have seemed benign in the past, but its effects on the American farm community clearly no longer are benign. No more neglect. We must improve our ability to monitor unfair trade practices, to undertake periodic reviews of our competitors' policies—especially unfair or illegal subsidies. We need to go into the GATT negotiations determined to demand better rules for controlling unfair agricultural trade practices and determined to fight for improved access to foreign markets. If other nations won't play by the rules, mandatory retaliation must answer flagrant abuse. Immediately, we need to jolt the EEC into awareness that its denial of market access to us in connection with Spanish/Portuguese accession will not be accepted. Let's get this message across, whatever it takes. The administration seems to be doing just that on the damage we have been threatened with by the EEC changes on the Spanish/Portuguese accession. At the same time we must emphatically continue the dialog aimed at convincing the EEC that lower subsidies are in the Community's interest as well as ours.

We must be more innovative; that really is just another facet of being more aggressive. I have, for example, been promoting a bill to lower tariffs for the Eastern European nations having a negative trade balance with the United States so as to allow them to earn more trade dollars with which to buy U.S. farm goods. I haven't made as much headway with this legislation as I would have liked due to foreign policy considerations. This is exactly the kind of sacrificing of our own best economic interests and ideological inertia which has predominated in the past and which must be stopped. In the past we were wealthy enough to ignore trade considerations. We aren't any longer. Another possibility is to barter surplus commodities to Mexico for low-priced oil for the strategic petroleum reserve. It would save storage costs on surplus commodities. Since we will have decided to stop filling our strategic petroleum reserve in May of this year for budgetary reasons, at half the authorized level, these would be sales the Mexicans would not otherwise make and thus would be doubly welcome. It would also provide them with agricultural commodities they currently cannot afford and which would only match the reductions they have already made.

It seems to me that there are other possibilities. We have seen that as nations move up the economic scale, and here I have in mind, for example, South Korea, meat consumption follows. The market for food grains, primarily wheat, which are important for low-income diets, may increase only as fast as population. But the market for

feed grains, on which meat production depends, increases as income increases. Surely this offers us some additional export opportunities. I can't help wondering, too, about all this proclaimed self-sufficiency. It may be that compared with starvation or subsistence levels of food intake, there has been great improvement. But if self-sufficiency means the provision of no more than the minimum daily requirement, then there certainly is room for vast improvement and greater export potential than estimated. Certainly the diet of most of the world does not approach our own, and while reaching those minimum levels is indeed a big step forward, there remains a vast amount of improvement that could be made above those minimum daily requirement levels.

Another possibility is that some marginal production might in the future come to be considered too expensive. Just as the economics of high-priced oil are called into sharp question by falling oil prices I wonder if a similar shakeout might not occur in grain production. According to one article, high wheat prices have turned the Saudi desert green. The Saudis produced 2.3 mmt of wheat last year, but I wonder what it cost them. The uncertain amount is at least rather astronomical in comparison to our costs.

We can also expect new products to appear. A few years ago the soybean was hardly known; today it is profitably raised on 50 million hectares. Export of agricultural services and inputs can be expected to grow. Despite the increased production, natural disasters, such as the Sahelian drought, will continue to occur and we must be in a position to cope with such disastrous events or conditions. New uses of agricultural products will also emerge, many of them perhaps for nonfood uses. Ethanol would have been a good current example until falling oil prices made the economics of the proposition somewhat more questionable. There will undoubtedly be many others which we have not even considered.

Despite the many difficulties facing us, I am confident that we can compete successfully for many export markets. It won't be easy and we can't expect miracles. The first goal is to make enough gains to stabilize and reverse the downward trend in export value and quantities. Perhaps one of the hardest things to accomplish will be achieving the proper mind set. Not so long ago Americans thought that everything we produced was the biggest, the best, the shiniest. Then doubts set in. It is probably good for us to approach the American condition with some humility, but we must take care not to be so negative or pessimistic as to be defeatist.

It may be, as I have said, that yield levels for some crops in a few countries have surpassed our own. So be it. We aren't logically going to be first in production and efficiency in everything. But overall we can and will be very competitive, easily the best overall for the foreseeable future. Our farmers are better educated and trained than those of any other nation. They are, as a result, extraordinarily efficient. They are supported by a scientific, industrial, and logistical infrastructure second to none. It may be that other nations are closing the technological gap with the United States, but the outstanding research institutions we have in the United States ensure that our agriculture will remain at the cutting edge of production and progressive agriculture. Our cropland and climate overall continue to be the envy of much of the world.

With all that we have going for us in the United States, the only logical conclusion is that America has a bright future in agriculture—if we put forth our best national effort. With respect to agricultural exports, the U.S. Government and the agribusiness sector must work together and with greater energy. In short, it is time to roll up the sleeves and get on with the job.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROTH) to revise and extend their remarks and include extraneous material:)

Mr. ROTH, for 60 minutes, today.

Mr. BEREUTER, for 60 minutes, today.

(The following Members (at the request of Mr. COELHO) to revise and extend their remarks and include extraneous material:)

Mr. UDALL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FRANK, for 5 minutes, on April 22.

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 30 minutes, on April 23.

Mr. RAY, for 5 minutes, on April 22.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROTH) and to include extraneous matter:)

Mr. COURTER.

Mr. CLINGER.

Mr. GEKAS.

Mr. OXLEY.

Mr. GILMAN in two instances.

Mr. CHANDLER.

Mr. COLEMAN of Missouri.

Mr. SCHUETTE in two instances.

Mr. TAUKE.

Mr. PORTER.

Mr. RITTER in three instances.

(The following Members (at the request of Mr. COELHO) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. BARNES.

Mr. STARK.

Mr. MONTGOMERY.

Mr. JENKINS.

Mr. FRANK.

Mr. BENNETT.

Mr. LEHMAN of California.

## SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2251. An act to authorize the Administrator of General Services to convey property to the District of Columbia, and for other purposes; to the Committee on Government Operations.

S. Con. Res. 129. Concurrent resolution expressing the sense of Congress in opposition to certain import restrictions imposed by the European Community that adversely affect U.S. agricultural exports and urging the President to use to the fullest extent his authority to respond to these practices; to the Committee on Ways and Means.

## ENROLLED JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee has examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker pro tempore.

H.J. Res. 582. Joint resolution to designate April 20, 1986, as "Education Day U.S.A.", and

H.J. Res. 599. Joint resolution commemorating the 25th anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny.

## SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 303. Joint resolution to designate April 1986, as "Fair Housing Month."

## BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, a bill and joint resolutions of the House of the following title

On April 17, 1986:

H.R. 4551. An act to extend for 3 months the emergency acquisition and net worth guarantee provisions for the Garn-St Germain Depository Institutions Act of 1982.

On April 18, 1986:

H.J. Res. 599. Joint resolution commemorating the 25th anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny, and

H.J. Res. 582. Joint resolution to designate April 20, 1986, as "Education Day U.S.A."

## ADJOURNMENT

Mr. BEREUTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to. Accordingly (at 4 o'clock and 5 minutes p.m.) the House adjourned until tomorrow, Tuesday, April 22, 1986, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3350. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3351. A letter from the Director, Information Security Oversight Office, transmitting a copy of the Information Security Oversight Office's "Annual Report to the President FY 1985"; to the Committee on Government Operations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. Supplemental report on H.R. 3302 (Rept. 99-427, Pt. 2). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3617. A bill to exempt rural water systems facilities assisted under the Consolidated Farm and Rural Development Act as amended from certain right-of-way rental payments under the Federal Land Policy and Management Act of 1976; with an amendment (Rept. 99-548). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. REID:

H.R. 4642. A bill to designate certain lands in the State of Nevada as wilderness, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. BOULTER (for himself, Mr. ARMEY, Mr. ARCHER, Mr. BARTON of Texas, Mr. BREAUX, Mr. MOORE, Mr. HUNTER, Mr. WILSON, Mr. DORNAN of California, and Mr. LAGOMARSINO):

H.R. 4643. A bill to amend the Internal Revenue Code of 1954 to repeal certain restrictions on oil and gas tax benefits after transfer of property; to the Committee on Ways and Means.

By Mr. JENKINS:

H.R. 4644. A bill to suspend temporarily the duty on 3-nitro phenyl-4-beta-hydroxy sulfone (also known as nitro sulfon B); to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 4645. A bill to modify the boundaries of the Cuyahoga Valley National Recreation Area; to the Committee on Interior and Insular Affairs.

By Mr. STARK:

H.R. 4646. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on passenger automobiles not containing qualified passive restraint systems and to provide for a system of returning the revenues raised by such tax on a pro rate basis to those who purchase passenger automobiles with qualified passive restraint systems; to the Committee on Ways and Means.

By Mr. TAUKE:

H.R. 4647. A bill to establish a Social Security Administration as an independent agency, to establish a Social Security Court to review decisions relating to entitlement to benefits under the Social Security Act, and to improve procedures for administrative review of disability determinations under such act; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 4648. A bill to amend the Energy Reorganization Act of 1974 to create an independent Nuclear Safety Board; to the Committee on Interior and Insular Affairs.

By Mr. WRIGHT (for himself, Mr. MICHEL, Mr. FOLEY, and Mr. LOTT):

H.J. Res. 604. Joint resolution providing for appointment to the service academies of children of members of the Armed Forces killed in the military action against Libya on April 15, 1986; to the Committee on Armed Services.

By Mr. KASTENMEIER:

H.J. Res. 605. Joint resolution designating February 11, 1987, as "National Inventors' Day"; to the Committee on Post Office and Civil Service.

By Mr. SCHEUER (for himself, Mr. BATEMAN, Mr. HARTNETT, Mr. UDALL, Mrs. BURTON of California, Mr. FUSTER, Mr. GRAY of Pennsylvania, Mr. MCDADE, Mr. VANDER JAGT, Mr. MOORE, Mr. MCCLOSKEY, Mr. BURTON of Indiana, Mr. STRATTON, Mr. TRAFICANT, Mr. GONZALEZ, Mr. BILIRAKIS, Mr. OBERSTAR, Mr. MOLINARI, Mr. THOMAS of Georgia, Mr. CONYERS, Mr. MURPHY, Mr. SUNDQUIST, Mr. KILDEE, Mr. BROOMFIELD, Mr. DYMALLY, Mr. TALLON, Mr. MARTIN of New York, Mr. EDWARDS of Oklahoma, Mr. HENRY, Mr. BATES, Mr. MCEWEN, Mr. SAXTON, Mr. MACKAY, Mr. HOWARD, Mr. TAUZIN, Mrs. HOLT, Mr. LUNGREN, Mr. BLILEY, Mr. FEIGHAN, Mr. FORD of Tennessee, Mr. WAXMAN, Mr. AKAKA, Mr. FROST, Mr. GALLO, Mr. KOLTER, Mr. MCKINNEY, Mr. MOAKLEY, Mr. KASICH, Mr. ORTIZ, Mr. LIGHTFOOT, Mr. MILLER of California, Mr. DASCHLE, Mr. HAYES, Mr. FIELDS, Mr. LAFALCE, Mr. LEWIS of Florida, Mr. VOLKMER, Mrs. LONG, Mr. BENNETT, Mrs. KENNELLY, Mr. DAUB, Mr. WEAVER, Mr. WYDEN, Mr. ARCHER, Mrs. BENTLEY, Mr. WOLPE, Ms. KAPTUR, Mr. BEDELL, Mr. SPRATT, Mr. ROSE, Mr. TORRICELLI, Mr. MILLER of Washington, and Mr. GORDON):

H.J. Res. 606. Joint resolution to authorize and request the President to issue a proclamation designating May 11 through May 18, 1986, as "Jewish Heritage Week", to the Committee on Post Office and Civil Service.

By Mr. BIAGGI (for himself, Mr. MURPHY, Mr. SAVAGE, Mr. TRAFICANT, Mr. DWYER of New Jersey, Ms. KAPTUR, Mr. HEFTEL of Hawaii, Mr. YOUNG of Alaska, Mr. GALLO, Mr. ST GERMAIN, Mr. TALLON, Mr. EDGAR, Mr. SUNIA, Mr. WISE, Mr. RICHARDSON, Mr. SCHUMER, Mr. HOYER, Mr. FAZIO, Mr. FRANK, Mr. CONYERS, Mr. TOWNS, Mr. LEHMAN of Florida, Mr. MATSUI, Mr. WALGREN, Mr. NOWAK, Mr. OWENS, Mr. MORRISON of Connecticut, Mr. WOLF, Mr. MINETA, Mr. HAYES, Mr. PURSELL, Mr. HORTON, Mr. RANGEL, Mr. WILSON, Mr. WORTLEY, Mr. YOUNG of Missouri, Mr. SMITH of Florida, Mr. YATRON, Mr. RAHALL, Mr. LIPINSKI, Mrs. HOLT, Mr. DURBIN, and Mrs. BOXER):

H. Con. Res. 321. Concurrent resolution expressing the sense of Congress in opposition to employment discrimination against persons who have, or have had, cancer based on such individual's cancer history; to the Committee on Education and Labor.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SHUMWAY Introduced a bill (H.R. 4649) to confer jurisdiction upon the U.S. Claims Court to render judgment upon the claim of John King, and for other purposes; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. BURTON of Indiana, Mr. HALL of Ohio, Mr. LUKEN, and Mr. MCCLOSKEY.

H.R. 70: Mr. WEBER.

H.R. 77: Mr. YOUNG of Florida and Mr. MRAZEK.

H.R. 604: Mr. KEMP.

H.R. 979: Mr. HORTON, Mrs. JOHNSON, Mr. LAFALCE, and Mr. LIPINSKI.

H.R. 1398: Mr. GONZALEZ.

H.R. 1507: Mr. STAGGERS.

H.R. 1840: Mr. DOWDY of Mississippi, Mr. PEPPER, Mr. PACKARD, Mr. NEAL, and Mr. BREAUX.

H.R. 2439: Mr. MCMILLAN.
H.R. 2583: Mr. COBEY.
H.R. 2701: Mr. MCCLOSKEY.
H.R. 2867: Mr. RICHARDSON, Mr. TALLON, Mr. FLORIO, and Mr. YATES.
H.R. 3006: Mr. PASHAYAN.
H.R. 3032: Mr. RAHALL.
H.R. 3121: Mr. MCCLOSKEY.
H.R. 3767: Mr. VISCLOSKY and Mr. APPLEGATE.
H.R. 3817: Mr. DIOGUARDI, Mr. BOEHLERT, Mr. DARDEN, Mr. MCKINNEY, Ms. KAPTUR, Mr. FORD of Tennessee, Mr. MCKERNAN, Mr. KANJORSKI, Mr. GRAY of Illinois, Mr. RIDGE, Mr. MOLINARI, Mr. ACKERMAN, Mr. WILSON, Mr. MORRISON of Connecticut, Mr. TORRES, and Mr. WEAVER.
H.R. 4003: Mr. DURBIN, Mr. BORSKI, and Mr. KLECZKA.
H.R. 4096: Mr. GUNDERSON, Mr. CHAPPELL, Mr. FASCELL, Mr. JEFFORDS, Mr. WISE, Mr. CHAPPIE, Mr. YOUNG of Florida, Mr. LIPINSKI, Mr. SHAW, Mr. HORTON, Mr. MARTINEZ, Mr. HAWKINS, Mr. NELSON of Florida, Mr. BERMAN, Mr. MICA, and Mr. HAYES.
H.R. 4194: Mr. LANTOS, Mr. COURTER, Mr. MITCHELL, Mr. HERTEL of Michigan, Mr. STOKES, Mrs. SCHNEIDER, Mr. BATES, and Mr. TORRES.
H.R. 4204: Mr. CHAPPIE.
H.R. 4393: Mr. BARNARD, Mr. BEVILL, Mr. BROWN of California, Mr. DORGAN of North Dakota, Mr. DREIER of California, Mr. FAUNTROY, Mr. FRANKLIN, Mr. HAYES, Mr. HORTON, Mr. KLECZKA, Mr. LAGOMARSINO, Mr. LEVIN of Michigan, Mrs. LLOYD, Mr. MILLER of Washington, Mr. MITCHELL, Mr. MORRISON of Connecticut, Mr. RANGEL, Mr. TOWNS, Mr. WHITEHURST, and Mr. WORTLEY.
H.R. 4488: Mrs. BURTON of California, Mr. MRAZEK, Ms. KAPTUR, Mr. FUSTER, Mr. OWENS, and Mr. SCHUMER.
H.R. 4546: Mr. WILSON, Mr. MRAZEK, and Mr. DELLUMS.
H.R. 4567: Mr. WILSON, Mr. ROTH, and Mr. CARNEY.
H.R. 4593: Mr. SMITH of New Jersey and Mr. KASTENMEIER.
H.R. 4602: Mr. DE LA GARZA, Mr. TORRES, Mr. DELLUMS, Mrs. BURTON of California, Mr. MCCANDLESS, Mr. FRANK, Mr. PARRIS, Mr. WYDEN, Mr. BARTLETT, Mrs. KENNELLY, Mr. SMITH of Florida, Mr. MCMILLAN, Mr. MRAZEK, Ms. KAPTUR, Mr. HUBBARD, and Mrs. ROUKEMA.
H.R. 4604: Mr. NIELSON of Utah, Mr. CHAPPIE, Mr. STENHOLM, and Mr. LEWIS of California.
H.J. Res. 502: Mr. DURBIN, Mr. STANGELAND, Mr. GRAY of Illinois, Mr. LEWIS of California, Mr. MILLER of Washington, Mr. ST GERMAIN, Mr. WATKINS, Mr. GINGRICH, Mr. CARPER, Mr. GILMAN, Mr. FORD of Tennessee, and Mr. FASCELL.
H.J. Res. 529: Mr. FLORIO, Mr. DOWDY of Mississippi, and Mr. MCGRATH.
H.J. Res. 567: Mr. MARTINEZ and Mr. SMITH of Florida.
H.J. Res. 594: Mr. GRAY of Illinois, Mr. MANTON, Mr. WILSON, Mr. BONER of Tennessee, Mr. SMITH of Florida, Mr. HOWARD, Mr. ROBERTS, Mr. RODINO, Mr. ROE, Mr. SABO, Mr. BEVILL, Mr. SCHEUER, Mr. TOWNS, Mr. FUQUA, Mrs. BOXER, Mr. DIXON, Mr. SNYDER, Mr. TALLON, Mr. VANDER JAGT, Mr. WAXMAN, Mr. DWYER of New Jersey, Mr. WOLPE, Mr. WORTLEY, Mr. CONTE, Mr. EMERSON, Mr. HATCHER, Mr. HEFNER, Mr. HERTEL of Michigan, Mr. JONES of North Carolina, Mr. KASTENMEIER, Mr. DOWDY of Mississippi, Mr. ROWLAND of Georgia, Mr. LUKEN, Mr. FOWLER, Mr. YOUNG of Florida, Mr. LAGOMARSINO, Mr. CONYERS, Mr. FROST, Mr. BONIOR of Michigan, Mr. LEVIN of Michigan, Mr. HORTON, Mr. DEWINE, and Mr. DYMALLY.
H. Res. 408: Mr. TOWNS, Mr. LEVINE of California, Mr. DORNAN of California, Mr. WORTLEY, and Mr. HEFTEL of Hawaii.
H. Res. 424: Mr. GREGG, Mr. STRATTON, Mr. RUSSO, Mr. GARCIA, Mr. BARNARD, Mr. HUTTO, Mr. STENHOLM, Mr. ENGLISH, Mr. WATKINS, Mr. MONTGOMERY, Mr. FROST, Mr. TRAXLER, Mr. PICKLE, Mr. BRYANT, Mr. WALGREN, Mr. HOYER, Mr. MOLLOHAN, Mr. SCHUMER, Mr. WISE, Mr. ROEMER, Mr. COLEMAN of Texas, Mr. BRUCE, Mr. FORD of Michigan, Mr. CHAPMAN, Mr. LUKEN, Mr. BENNETT, Mr. SOLARZ, Mr. DICKS, Mr. HATCHER, Mr. COBEY, Mr. DREIER of California, Mr. RIDGE, Mr. HILER, Mr. BILIRAKIS, Mr. OXLEY, Mr. BARTON of Texas, Mr. ARMEY, Mr. KOLBE, Mr. FRANKLIN, Mr. BROYHILL, Mrs. ROUKEMA, Mr. BROOMFIELD, Mr. HENRY, Mr. BOEHLERT, Mr. KANJORSKI, Mr. MCKINNEY, Mr. RALPH M. HALL, Mr. BADHAM, Mr. LIVINGSTON, Mr. MCCOLLUM, Mr. HILLIS, Mr. DYSON, Mr. STUMP, Mr. HOPKINS, Mr. CHAPPELL, Mr. WHITTAKER, Mr. HENDON, Mr. HUBBARD, Mr. WOLF, Mrs. HOLT, Mr. TAUZIN, Mr. HALL of Ohio, Mr. GLICKMAN, Mr. BREAUX, Mr. ROBINSON, Mr. DANIEL, Mr. ROWLAND of Georgia, Mr. VALENTINE, Mr. LEVIN of Michigan, Mr. ERDREICH, Mr. NEAL, Mr. LEATH of Texas, Mr. YOUNG of Missouri, Mr. VOLKMER, Mr. DURBIN, Mr. HEFNER, Mr. EDWARDS of Oklahoma, Mr. WHITLEY, Mr. ROSE, Mr. MCCLOSKEY, Mr. BONER of Tennessee, Mr. DOWDY of Mississippi, Mr. ANTHONY, Mr. MAVROULES, Mrs. BYRON, Mr. SHELBY, Mr. CARPER, Mr. ANDREWS, Mr. SWEENEY, Mr. WORTLEY, Mr. RAY, Mr. JENKINS, Mr. THOMAS of Georgia, Mr. FOWLER, Mr. GALLO, Mr. WALKER, Mr. HUNTER, Mr. MCEWEN, Mr. LUNGREN, Mr. CRAIG, Mr. HARTNETT, Mr. SOLOMON, Mr. MOORE, Mr. HYDE, Mr. SENSENBRENNER, Mr. EMERSON, Mr. BURTON of Indiana, Mr. BATEMAN, Mr. MCDADE, Mr. ARCHER, Mr. RINALDO, Mrs. MARTIN of Illinois, Mr. NIELSON of Utah, Mr. STRANG, Mr. SLAUGHTER, Mr. MCMILLAN, Mr. SYNAR, Mr. LEWIS of California, Mr. MOORHEAD, Mr. LIGHTFOOT, Mr. COURTER, Mr. BOUCHER, and Mr. ACKERMAN.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.J. RES. 283

By Mr. MICHEL:

—Strike out all after the resolving clause and insert in lieu thereof the following:

PURPOSES

SECTION 1. The purposes of this joint resolution are to promote peace, stability, and democracy in Central America, to encourage a negotiated resolution of the conflict in the region and, towards these ends, to enable the President to provide additional assistance for the Nicaraguan democratic resistance, as requested by the President on February 25, 1986, pursuant to the provisions of section 722(p) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) and section 106(a) of the Supplemental Appropriations Act, 1985 (Public Law 99-88), subject to the terms and conditions of this joint resolution.

POLICY TOWARD CENTRAL AMERICA

SEC. 2. (a) It is the policy of the United States that—

(1) the building of democracy, the restoration of peace, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States;

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America; and

(3) the September 1983 Contadora Document of Objectives, which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region, is to be encouraged and supported.

(b) The United States strongly supports as essential to the objectives set forth in subsection (a)—

(1) national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful, democratic settlement to the Nicaraguan conflict; and

(2) efforts to reach a comprehensive and verifiable final agreement based on the Contadora Document of Objectives, including efforts to encourage the Government of Nicaragua to pursue a dialogue with the representatives of all elements of the Nicaraguan democratic opposition for the purposes of achieving a democratic political settlement of the conflict, including free and fair elections.

POLICY TOWARD THE GOVERNMENT OF NICARAGUA

SEC. 3. (a) United States policy toward Nicaragua shall be based upon Nicaragua's responsiveness to continuing concerns affecting the national security of the United States and Nicaragua's neighbors about—

(1) Nicaragua's close military and security ties to Cuba and the Soviet Union and its Warsaw Pact allies, including the presence in Nicaragua of military and security personnel from those countries and allies;

(2) Nicaragua's buildup of military forces in numbers disproportionate to those of its neighbors and equipped with sophisticated weapons systems and facilities designed to accommodate even more advanced equipment;

(3) Nicaragua's unlawful support for armed subversion and terrorism directed against the democratically elected governments of other countries;

(4) Nicaragua's internal repression and lack of opportunity for the exercise of civil and political rights which would allow the people of Nicaragua to have a meaningful voice in determining the policies of their government through participation in regularly scheduled free and fair elections and the establishment of democratic institutions; and

(5) Nicaragua's refusal to negotiate in good faith for a peaceful resolution of the conflict in Central America based upon the comprehensive implementation of the September 1983 Contadora Document of Objectives and, in particular, its refusal to engage in a serious national dialogue with all elements of the Nicaraguan democratic opposition.

(b) The United States will address the concerns described in subsection (a) through economic, political, and diplomatic measures, as well as through support for the Nicaraguan democratic resistance. In order to assure every opportunity for a peaceful resolution of the conflict in Central America, the United States will—

(1) engage in bilateral discussions with the Government of Nicaragua with a view toward facilitating progress in achieving a peaceful resolution of the conflict, if the

Government of Nicaragua simultaneouly engages in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition; and

(2) limit the types and amounts of assistance provided to the Nicaraguan democratic resistance and take other positive action in response to steps taken by the Government of Nicaragua toward meeting the concerns described in subsection (a).

(c) The duration of bilateral discussions with the Government of Nicaragua and the implementation of additional measures under subsection (b) shall be determined, after consultation with the Congress, by reference to Nicaragua's actions in response to the concerns described in subsection (a). Particular regard will be paid to whether—

(1) freedom of speech, assembly, religion, and political activity are being respected in Nicaragua and progress is being made toward the holding of regularly scheduled free and fair elections;

(2) there has been a halt to the flow of arms and the introduction of foreign military personnel into Nicaragua, and a withdrawal of all foreign military personnel has begun;

(3) a cease-fire with the Nicaraguan democratic resistance is being respected; and

(4) Nicaragua is refraining from acts of aggression, including support for insurgency and terrorism in other countries.

(d) The actions by the United States under this joint resolution in response to the concerns described in subsection (a) are consistent witht he right of the United States to defend itself and to assist its allies in accordance with international law and treaties in force. Such actions are directed, not to determine the form or composition of any government of Nicaragua, but to achieve a comprehensive and verifiable agreement among Central American countries, based upon the 1983 Contadora Document of Objectives, including internal reconciliation within Nicaragua, based upon democratic principles, without the use of force by the United States. Nothing in this joint resolution shall be construed as authorizing any member or unit of the Armed Forces of the United States to engage in combat against the Government of Nicaragua.

POLICY TOWARD THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 4. (a) It is the policy of the United States to assist all groups within the Nicaraguan democratic resistance which—

(1) are committed to work together for democratic national reconciliation in Nicaragua based on the document issued by the six Nicaraguan opposition parties on February 7, 1986, entitled "Proposal to the Nicaraguan Government for a Solution to the Crisis in Our Country"; and

(2) respect international standards of conduct and refrain from violations of human rights or from other criminal acts.

(b) No assistance under this joint resolution may be provided to any group that retains in its ranks any individual who has been found to engage in—

(1) gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961); or

(2) drug smuggling or significant misuse of public or private funds.

(c)(1) The Congress finds that the Nicaraguan democratic resistance has been broadening its representative base, through the forging of cooperative relationships between the United Nicaraguan Opposition (UNO) and other democratic resistance elements, and has been increasing the responsiveness of military forces to civilian leadership.

(2) The President shall use the authority provided by this joint resolution to further the developments described in paragraph (1) and to encourage the Nicaraguan democratic resistance to take additional steps to strengthen its unity, pursue a defined and coordinated program for representative democracy in Nicaragua, and otherwise increase its appeal to the Nicaraguan people.

(d) In furtherance of the policy set out in this section, not less than $10,000,000 of the funds transferred under section 5(a) shall be available only for assistance to resistance forces otherwise eligible and not currently included within UNO, of which amount $5,000,000 shall be available only for the Southern Opposition Bloc (BOS) and $5,000,000 shall be available only for the Indian resistance force known as Misurasata.

(e) Notwithstanding any other provision of this joint resolution, no member of the United States Armed Forces, or employee of any department, agency, or other component of the United States Government may enter Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country.

TRANSFER OF FUNDS

SEC. 5. (a)(1) The Congress hereby approves the provision of assistance for the Nicaraguan democratic resistance in accordance with the provisions of this joint resolution.

(2) There are transferred to the President for use in carrying out the provisions of this joint resolution $100,000,000 of unobligated funds from such accounts for which appropriations were made by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), as the President shall designate. No limitation or restriction contained in section 10 of Public Law 91-672, section 8109 of the Department of Defense Appropriations Act, 1986, section 502 of the National Security Act of 1947, or any other provision of law shall apply to the transfer or use of such funds.

(b) Notwithstanding the Impoundment Control Act of 1974, not more than 23 percent of the funds transferred under subsection (a) may be available for obligation or expenditure in accordance with this joint resolution upon the date of enactment of this joint resolution, and not more than an additional 15 percent of such funds may be so available upon the transmittal of each report required by section 12.

(c) Funds transferred under subsection (a) shall remain available for the same periods of time, but not to exceed September 30, 1987, as such funds would have been available under the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), but for the enactment of this joint resolution.

(d)(1) There are transferred to the President out of funds appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88), under the heading "Assistance For Implementation of a Contadora Agreement" such sums as the President may require, but not more than $2,000,000, to facilitate the participation of Costa Rica, El Salvador, Guatemala, and Honduras in regional meetings and negotiations to promote peace, stability, and security in Central America. No limitation or restriction contained in section 15 of the State Department Basic Authorities Act of 1956, section 10 of Public Law 91-672, or any other provision of law shall apply to the transfer or use of such funds.

(2) Funds transferred under paragraph (1) shall remain available for the same period of time as such funds would have been available under the Supplemental Appropriations Act, 1985 (Public Law 99-88), but for the enactment of this joint resolution.

FUNDS FOR HUMANITARIAN ASSISTANCE

SEC. 6. (a) Of the amounts transferred under section 5(a), $30,000,000 shall be available only for the provision of humanitarian assistance to the Nicaraguan democratic resistance by the Nicaraguan Humanitarian Assistance Office (established by Executive Order 12530).

(b) Of the $30,000,000 made available only for purposes of subsection (a), $3,000,000 shall be available only for strengthening programs and activities of the Nicaraguan democratic resistance for the observance and advancement of human rights.

APPLICATION OF EXISTING LAWS

SEC. 7. (a) Except as otherwise provided in this joint resolution, funds transferred under section 5(a) shall be available for the purposes described in section 105(a) of the Intelligence Authorization Act for Fiscal Year 1986, and all the requirements, terms, and conditions of such section and sections 101 and 102 of such Act, section 502 of the National Security Act of 1947, and section 106 of the Supplemental Appropriations Act, 1985 (Public Law 99-88), shall be deemed to have been met for such use of such funds.

(b) The use of funds made available under this joint resolution is subject to all applicable provisions of law and established procedures relating to the oversight by the Congress of operations of departments and agencies.

(c) Nothing in this joint resolution shall be construed as permitting the President to furnish additional assistance to the Nicaraguan democratic resistance from funds other than the funds transferred under section 5(a) or otherwise specifically authorized by the Congress for assistance to the Nicaraguan democratic resistance.

USE OF FUNDS AFTER A PEACEFUL SETTLEMENT

SEC. 8. If the President determines and so reports to the Congress that a peaceful settlement of the conflict in Central America has been reached, then the unobligated balance, if any, of funds transferred under section 5(a) shall be available for the purposes of relief, rehabilitation, and reconstruction in Central American countries in accordance with the authorities contained in chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to economic support fund assistance).

INCENTIVES FOR A NEGOTIATED SETTLEMENT

SEC. 9. (a) Assistance under this joint resolution shall be provided in a manner designed to encourage the Govenment of Nicaragua to respond favorably to the many opportunities available for achieving a negotiated settlement of the conflict in Central America. These opportunities include the following proposals:

(1) Six opposition Nicaraguan political parties on February 7, 1986, called for an immediate cease-fire, an effective general amnesty, abolition of the state of emergency, agreement on new electoral process and general elections, effective fulfillment of international commitments for democratization, and observance of implementation of these actions and commitments by appropriate international groups and organizations;

(2) President Reagan on February 10, 1986, offered simultaneous talks between the Government of Nicaragua and all elements of the Nicaraguan democratic opposition in Nicaragua and between the Government of Nicaragua and the United States Government;

(3) President Jose Napoleon Duarte of El Salvador on March 5, 1986, offered an additional dialogue between the Government of El Salvador and the insurgents in El Salvador if the Government of Nicaragua would simultaneously engage in a dialogue with all elements of the Nicaraguan democratic opposition; and

(4) President Reagan's Message to the Congress of March 19, 1986, proposed a mission to Latin America by his special envoy to encourage the Contadora and Support Group countries to join in urging the Government of Nicaragua to initiate a national dialogue with representatives of all elements of the Nicaraguan democratic opposition.

(b) In furtherance of the objectives set forth in subsection (a), and except as provided in subsection (c), assistance to the Nicaraguan democratic resistance under this joint resolution shall be limited to the following:

(1) humanitarian assistance (as defined in section 722(g)(5) of the International Security and Development Cooperation Act of 1985);

(2) logistics advice and assistance;

(3) support for democratic political and diplomatic activities;

(4) training in radio communications, collection, and utilization of intelligence, logistics, and small-unit skills and tactics; and

(5) equipment and supplies necessary for defense against air attacks.

(c) On and after July 1, 1986, the restrictions in subsection (b) shall cease to apply beginning 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives,

(2) the Government of Nicaragua is not engaged in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity, leading to regularly scheduled free and fair elections and the establishment of democratic institutions, and

(3) there is no reasonable prospect of achieving such agreement, dialogue, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance,

unless the Congress has enacted a joint resolution under section 10 disapproving the provision of additional assistance (other than assistance described in subsection (b)).

(d)(1) Notwithstanding subsection (c), no assistance (other than the assistance described in paragraphs (1) through (4) of subsection (b)) shall be provided at any time to the Nicaraguan democratic resistance under this joint resolution if—

(A) the President determines that—

(i) the Central American countries have concluded a comprehensive and effective agreement based on the Contadora Document of Objectives; or

(ii) the Government of Nicaragua is engaging in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; or

(B) the Congress enacts a joint resolution under section 10 disapproving the provision of additional assistance (other than assistance described in paragraphs (1) through (4) of subsection (b)).

(2) The prohibition contained in paragraph (1) shall not apply with respect to assistance described in paragraph (5) of subsection (b) if the Government of Nicaragua acquires additional equipment or materiel to carry out air attacks.

(e) The limitations on assistance that may be furnished to the Nicaraguan democratic resistance which are contained in subsections (b) and (d) shall cease to apply if the Congress enacts a joint resolution, in accordance with section 10, stating that the Government of Nicaragua has failed to accept or observe a cease-fire with the Nicaraguan democratic resistance.

(f)(1) Notwithstanding any other provision of this joint resolution, on or after July 1, 1986, funds may be obligated or expended under this joint resolution only if the President determines and reports to the Congress that the Nicaraguan democratic resistance groups receiving assistance under this joint resolution have agreed to and are beginning to implement—

(A) confederation and reform measures to broaden their leadership base;

(B) the coordination of their efforts;

(C) the elimination of human rights abuses;

(D) the pursuit of a defined and coordinated program for achieving representative democracy in Nicaragua; and

(E) the subordination of military forces to civilian leadership.

(2) In making his determination under paragraph (1), the President shall take into account the effectiveness and legitimacy of the political leadership of those Nicaraguan democratic resistance groups receiving assistance under this joint resolution, including the ability of that political leadership—

(A) to reflect the views and objectives of the internal and external Nicaraguan democratic opposition;

(B) to function as the spokesman for the Nicaraguan democratic opposition with Central Americans, international organizations, and the United States Government;

(C) to represent the Nicaraguan democratic opposition in dealing with the Government of Nicaragua;

(D) to provide command and control for the military forces of all resistance groups receiving assistance under this joint resolution and to establish the goals for their military operations;

(E) to determine the distribution of assistance provided under this joint resolution; and

(F) to provide the legal mechanisms necessary for the enforcement of standards of conduct applicable to all members of the resistance groups receiving assistance under this joint resolution.

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 10. (a)(1) A joint resolution described in subsection (c) of section 9 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to the joint resolution entitled 'Joint resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985', except as provided in section 9(b) thereof.".

(2) A joint resolution described in subsection (d)(1)(B) of section 9 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to the joint resolution entitled 'Joint resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985', except as provided in paragraphs (1) through (4) of section 9(b) and paragraph (2) of subsection (d) thereof.".

(3) A joint resolution described in subsection (e) of section 9 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress finds that the Government of Nicaragua has failed to accept or observe a cease-fire and hereby approves the provision of assistance to the Nicaraguan democratic resistance pursuant to the joint resolution entitled 'Joint Resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.', notwithstanding subsection (b) or (d) of section 5 thereof".

(b) A joint resolution described in subsection (a)(1), (a)(2), or (a)(3) shall be considered in the House of Representatives and in the Senate in accordance with the provisions of paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(1) references in such paragraphs to a joint resolution shall be deemed to be references to the respective joint resolution set forth in subsection (a)(1), subsection (a)(2), or subsection (a)(3);

(2) references in such paragraphs to the Committee on Appropriations shall be deemed to be references to the appropriate committee or committees of the respective House of Congress;

(3) references in such paragraphs to the eighth day and to fifteen calendar days shall be deemed to be references to the fifth day and to five calendar days, respectively; and

(4) amendments may be in order but only if the amendments are germane.

(c) The provisions of this section are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under section 9, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

71-059 O-87-28 (Pt. 6)

COMMISSION ON CENTRAL AMERICAN NEGOTIATIONS

SEC. 11. (a)(1) There is established the Commission on Central American Negotiations (hereafter in this section referred to as the "Commission"), which shall be composed of five members appointed as follows:

(A) One individual appointed by the Speaker of the House of Representatives;

(B) One individual appointed by the Minority Leader of the House of Representatives;

(C) One individual appointed by the Majority Leader of the Senate;

(D) One individual appointed by the Minority Leader of the Senate; and

(E)One individual, who shall serve as Chairman of the Commission, selected by unanimous vote of the other members of the Commission.

(2) No officer or employee of the United States may be appointed as a member of the Commission.

(b) The purpose of the Commission is to monitor and report on the efforts of the Nicaraguan democratic resistance to coordinate and reform and on the status of any negotiations on the peace, stability, and security of Central America, including negotiations conducted between or among—

(1) the Government of Nicaragua and all elements of the Nicaraguan democratic opposition, including the Nicaraguan democratic resistance;

(2) the governments of Central American countries;

(3) the Government of the United States and the Government of Nicaragua;

(4) the governments of the Contadora and Support Group countries and the government of the Central American countries; and

(5) the Government of El Salvador and the insurgents in El Salvador.

(c)(1) The Commission may appoint and fix the pay of not more than seven staff personnel, but at such rates not in excess of the rate of pay for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2)(A) Each member of the Commission shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which such member is engaged in the performance of duties as a member of the Commission.

(B) While away from his home or regular place of business in the performance of duties for the Commission, a member or staff personnel of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(3) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(d)(1) A majority of the members of the Commission shall constitute a quorum.

(2) All decisions of the Commission, except as otherwise provided in this section, shall be by majority vote.

(e) The Commission may make such reports in connection with its duties as it deems necessary to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, except that—

(1) not later than 5 days after receipt by the Congress of a report by the President under section 9(c), the Commission shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report addressing all the matters which are required to be included in reports of the President by paragraphs (1), (3), and (4) of section 12; and

(2) not later than June 30, 1986, the Commission shall prepare and transmit to the Congress a report on whether the Nicaraguan democratic resistance groups receiving assistance under this joint resolution have agreed to and are beginning to implement measures described in subparagraphs (A) through (E) of section 9(f)(1) and an evaluation of the factors described in section 9(f)(2).

(f)(1) Salaries and expenses of the Commission, but not more than $400,000, shall be paid from the contingent fund of the Senate out of the Account for Miscellaneous Items, in accordance with the provisions of this section.

(2) Funds made available to the Commission by paragraph (1) shall be disbursed on vouchers approved by the Chairman, except that no voucher shall be required for the disbursement of the salary of an individual appointed under subsection (c).

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such section.

(g) The Commission shall terminate not later than 30 days after transmittal of the reports required by subsections (e) and (f).

PRESIDENTIAL REPORTING REQUIREMENT

SEC. 12. Not later than 90 days after the date of enactment of this joint resolution, and every 90 days thereafter, the President shall prepare and transmit to the Congress a report on actions taken to achieve a resolution of the conflict in Central America in a manner that meets the concerns described in section 3(a). Each such report shall include—

(1) a detailed statement of any progress made in reaching a negotiated settlement, including the willingness of the Nicaragauan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide assistance with the funds transferred under section 5(a);

(3) a discussion of alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) an evaluation of the progress made by the Nicaraguan democratic resistance in broadening its political base and defining a unified and coordinated program for achieving representative democracy in Nicaragua.

REQUESTS FOR ADDITIONAL ASSISTANCE

SEC. 13. The provisions of subsections (s) and (t) of section 722 of the International Security and Development Cooperation Act of 1985 shall apply with respect to any request described in section 722(p) of such Act submitted by the President to the Congress on or after the date of enactment of this resolution, except that, for purposes of consideration in a House of Congress of a joint resolution under subsection (s) or (t) of such section, amendments to such a joint resolution may be in order but only if such amendments are germane.

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H.R. 4420,

By Mr. MONTGOMERY:

—Page 51, line 11, insert "(1)" before "Of the".

Page 51, after line 17, insert the following:

(2) Of the amount described in section 401(b) which was appropriatated for procurement of National Guard and Reserve equipment, $285,000,000 may be obligated or expended. The authority provided in the preceding sentence is in addition to the authority provided in paragraph (1).

Page 56, strike out lines 22 and 23 and insert in lieu thereof the following:

(1) National Guard and Reserve Equipment Procurement, $941,130,000, as follows:

Army Reserve, $100,000,000.

Army National Guard, $312,450,000.

Naval Reserve, $67,790,000.

Marine Corps Reserve, $67,060,000.

Air Force Reserve, $154,120,000.

Air National Guard, $239,710,000.

Page 57, line 18, insert "(a) IN GENERAL.—" before " Programs".

Page 59, strike out line 18 and all that follows through page 60, line 9 (and redesignate the following paragraphs accordingly).

Page 61, after line 1, insert the following:

(b) RESERVE COMPONENT EQUIPMENT PROCUREMENT.— Section 401 applies with respect to fiscal year 1986 defense appropriations for procurement of equipment for the reserve components only to the extent that amounts appropriated for such purposes exceed the amounts specified in section 402(e)(1). Programs, projects, and activities for which amounts provided in fiscal year 1986 defense appropriations for procurement of equipment for the reserve components are subject to section 401 (except to the extent to which funds are available to be obligated or expended as provided in section 402) are the following:

(1) ARMY RESERVE.—

Miscellaneous equipment.

Truck SLEP.

(2) NAVAL RESERVE.— Miscellaneous equipment.

(3) MARINE CORPS RESERVE.— Miscellaneous equipmoent.

(4) AIR FORCE RESERVE.— Miscellaneous equipment.

(5) ARMY NATIONAL GUARD.—

Miscellaneous equipment.

Improved TOW vehicle.

M198 howitzer.

Truck SLEP.

(6) AIR NATIONAL GUARD.—Miscellaneous equipment.

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H.R. 4515

By Mr. BOSCO:

—Add the following new section at the end of the bill:

SEC. USE OF AMERICAN-BUILT RIGS FOR OCS DRILLING.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following new subsection:

"(j)(1) Any vessel, rig, platform, or other structure used for the purpose of exploration or production of oil and gas on the Outer Continental Shelf south of 49 degrees North latitude shall be built—

"(A) in the United States; and

"(B) from articles, materials, or supplies at least 50 percent of which, by cost, shall

have been mined, produced, or manufactured, as the case may be, in the United States.

"(2) The requirements of paragraph (1) shall not apply to any vessel, rig, platform, or other structure which was built, which is being built, or for which a building contract has been executed, on or before October 1, 1985.

"(3) The Secretary may waive—

"(A) the requirement in paragraph (1)(B) whenever the Secretary determines that 50 percent of the articles, materials, or supplies for a vessel, rig, platform, or other structure cannot be mined, produced, or manufactured, as the case may be, in the United States, and

"(B) the requirement in paragraph (1)(A) upon application, with respect to any classification of vessels, rigs, platforms, or other structures on a specific lease, when the Secretary determines that at least 50 percent of such classification, as calculated by number and by weight, which are to be built for exploration or production activities under such lease will be built in the United States in compliance with the requirements of paragraph (1)(A).".

By Mr. FAZIO:

—On page 34, after line 20, add the following new section:

SEC. . No funds appropriated, or made available, under this or any other act shall be used for soliciting proposals, preparing or reviewing studies or drafting proposals designed to transfer out of federal or public ownership, management or control in whole or in part the facilities and functions of the Federal Power Marketing Administrations located within the contiguous 48 states, and the Tennessee Valley Authority, until such activities have been specifically authorized and in accordance with terms and conditions established by an Act of Congress hereafter enacted; *Provided*, That this provision shall not apply to the authority granted under section 2(e) of the Bonneville Project Act of 1937; or to the authority of the Tennessee Valley Authority pursuant to any law under which it may dispose of property in the normal course of business in carrying out the purposes of the Tennessee Valley Authority Act of 1933, as amended; or to the authority of the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Service Act of 1949, as amended and the Surplus Property Act of 1944 to sell or otherwise dispose of surplus property.

By Mr. HAMMERSCHMIDT:

—Page 3, after line 14, insert the following:

DAIRY INDEMNITY PROGRAM

For an additional amount, for "Dairy Indemnity Program", authorized by the Act of August 13, 1968 (82 Stat. 750), the Act of August 10, 1973 (87 Stat. 223), and the Act of December 23, 1985 (99 Stat. 1377) $10,000,000 to remain available until expended.

By Mr. FAUNTROY:

—Page 16, after line 11, insert the following:

ASSISTANCE FOR HAITI

Of the funds made available for the "Economic Support Fund" in Public Law 99-190, up to $21,700,000 shall be made available for assistance to Haiti. Of this amount, $1,700,000 shall be transferred to the Inter-American Foundation for use by the Foundation for programs for Haiti. The assistance made available pursuant to this paragraph shall be used to promote the transition to democracy by means such as generating local currency for use for literacy projects, rural development, and job creation.

Of the funds made available in Public Law 99-190 to carry out sections 503 and 541 of the Foreign Assistance Act of 1961, up to $4,000,000 shall be made available to provide training and other nonlethal assistance (such as transportation equipment, communications equipment, and uniforms) for Haiti. The purposes of this assistance shall be to promote the immediate goal of disarming, and otherwise completing the dismantling of, the Volunteers for National Security (VSN) and also to promote the goal of increasing the ability of the Haitian armed forces to protect Haiti against external threat and to assist in the transition to democracy. Assistance pursuant to this paragraph may be provided notwithstanding the limitation on assistance to Haiti contained in section 705(e) of the International Security and Development Cooperation Act of 1985. The funds made available pursuant to this paragraph may be obligated only if the President certifies to the Congress that the Government of Haiti has provided written assurances that it—

(1) will not use the assistance provided with those funds to suppress legitimate protests;

(2) will act to end the involvement of the Haitian armed forces in human rights abuses and corruption by removing from the armed forces and prosecuting, in accordance with due process, those military personnel responsible for the human rights abuses and corruption;

(3) will provide education and training to the Haitian armed forces with respect to internationally recognized human rights and the civil and political rights essential to democracy, in order to enable them to function consistentwith those rights;

(4) will investigate the killings of unarmed civilians in Martissant and Gonaives and prosecute, in accordance with due process, those responsible for those killings, and will act to prevent amy similar occurences in the near future; and

(5) will officially require former members of the Volunteers for National Security (VSN) to turn in their weapons and will take the necessary actions to enforce this requirement.

Four months after the date of enactment of this Act and every four months thereafter, the President shall submit a report to the Congress which details the extent to which the Government of Haiti is acting consistent with each of paragraphs (1) through (5) of the preceding paragraph. Half of the assistance provided pursuant to the preceding paragraph shall be withheld from delivery until the President submits the first such report.

The assistance provided for Haiti pursuant to this chapter shall be in addition to the assistance previously allocated for Haiti.

It is the sense of the Congress that the United States Government should cooperate with the Government of Haiti in recovering for the Haitian people the wealth that was illegally obtained by former president Jean-Claude Duvalier and his former government ministers and associates through diversions of funds and property, regardless of whether that wealth is located in the United States or abroad.

By Mr. MICA:

—Page 11, after line 12, insert the following:

GENERAL PROVISION—DIPLOMATIC SECURITY PROGRAM

The funds made available by this chapter under the headings "SALARIES AND EXPENSES", "ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD", and COUNTERTERRORISM RESEARCH AND DEVELOPMENT" shall be used in accordance with those provisions applicable to the diplomatic security program that are contained in H.R. 4151 (the "Omnibus Diplomatic Security and Anti-Terrorism Act of 1986") as passed the House of Representatives on March 18, 1986, except that this paragraph shall cease to apply upon the enactment for authorizing legislation (either H.R. 4151 or similar legislation) providing for enhanced diplomatic security.

By Mr. MICHEL:

—Page 33, beginning on line 19, strike out section 201 and insert in lieu thereof the following:

SEC. 201. (a)(1) Paragraph (4) of section 1011 of the Impoundment Control Act of 1974 (hereinafter in this section referred to as "the Act") is amended to read as follows:

"(4) 'deferral resolution' means a joint resolution of the Congress which only expresses its disapproval of a proposed deferral of budget authority set forth in a special message transmitted by the President under section 1013; and"

(2) Subsection (b) of section 1013 of the Act is amended to read as follows:

"(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be deferred in any fiscal year (as set forth in a special message under subsection (a)) shall be made available for obligation if a deferral resolution is enacted disapproving such proposed deferral.".

(3) Section 1017 of the Act is amended by striking out "impoundment resolution" each place it appears and inserting in lieu thereof "deferral resolution".

(b)(1) Section 1013 of the Act is further amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) in subsection (a), by striking out the matter following paragraph (6) and inserting in lieu thereof the following:

"(b) LIMITATIONS ON DEFERRAL MESSAGES.—

"(1) A special message may include one or more proposed deferrals of budget authority, but the total amount of budget authority that may be deferred in any fiscal year shall not exceed $5,000,000,000.

"(2) Deferrals of budget authority shall be counted for purposes of paragraph (1) in the order in which submitted, except that if a message under section 1013 and a report under section 1015 are submitted on the same day, the deferral of budget authority described in such report shall be counted first. Once the limit contained in paragraph (1) has been reached for any fiscal year, any additional deferral of budget authority for such fiscal year shall be invalid, and the budget authority that is the subject of such deferral shall be made available for obligation.

"(3) Amounts which have been deferred but which are required to be made available by reason of the enactment of a deferral resolution or other provision of law shall not, after such enactment, be counted for purposes of paragraph (1).

"(4) Except to the extent that paragraph (3) applies following the enactment of a deferral resolution or other provision of law, amounts as to which the Comptroller General has made a finding under section 1015 (that the President has failed to transmit a deferral message) shall be counted for purposes of such limitation.

"(5) A deferral may not be proposed for any period of time extending beyond the

end of the fiscal year in which the special message proposing the deferral is transmitted to the House of Representatives and the Senate.".

(2) Section 1015(c) of the Act is amended by adding at the end thereof the following:

"(C) EXCEEDING LIMITATION ON DEFERRAL AUTHORITY.—If the Comptroller General finds that the total of—

"(1) the budget authority proposed to be deferred and the President under section 1013(a), plus

"(2) the budget authority with respect to which a finding has been made under subsection (a) that the President has failed to transmit a deferral message,

equals or exceeds the total amount that may be deferred in such fiscal year under section 1013(b), the Comptroller General shall make a report to both Houses of Congress setting forth his reasons.".

(3) Section 1016 of the Act is amended by striking out "or 1013(b)" and insertiong ", 1013(b), or 1013(c)".

(c)(1) Section 1011 of the Act is amended—

(A) In paragraph (1)—

(i) by striking out "includes—" and inserting in lieu thereof "does not include a reservation of budget authority but includes—"; and

(ii) by striking out "(whether by establishing reserves or otherwise)";

(B) by striking out "and" at the end of paragraph (4);

(C) by redesignating paragraph (5) as paragraph (6); and

(D) by inserting after paragraph (4) the following new paragraph:

"(5) 'reservation of budget authority' means withholding or delaying the obligation or expenditure of budget authority by the establishment of a reserve in accordance with section 1512(c) of title 31, United States Code, and with paragraphs (1) and (2) of section 1018(c) of this Act; and".

(2) Part B of the Act is amended by adding at the end thereof the following new subsection:

"REPORTING AND RECLASSIFICATION OF RESERVATIONS

"SEC. 1018. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to establish a reservation of budget authority, the President shall transmit to the House of Representatives and the Senate a special message specifying, with respect to the budget authority proposed to be reserved, the same information as is required with respect to a deferral of budget authority under paragraphs (1) through (6) of section 1013(a).

"(b) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General shall review each special message transmitted under subsection (a) to determine whether the proposed reservation of budget authority complies with the standards prescribed under subsection (c) of this section. If the Comptroller General determines that the proposed reservation does not comply with such standards—

"(1) the Comptroller General shall make a report to both Houses of Congress setting forth his reasons, and

"(2) the special message transmitted under subsection (a) shall be treated as if transmitted under section 1013(a).

"(c) STANDARDS TO ENSURE USE OF RESERVATIONS FOR ROUTINE MANAGEMENT PURPOSES AND NOT FOR PROPOSAL OF POLICY CHANGES.—The Comptroller General shall prescribe standards for determining whether a special message transmitted under this section proposes to withhold or delay the obligation or expenditure of budget authority—

"(1) exclusively for a purpose authorized by section 1512(c)(1) of title 31, United States Code; and

"(2) in a manner which improves the management and administration of the budget authority without diverging from the policies, purposes, and objectives of the Congress in making such budget authority available.".

(d)(1) The amendments made by this section shall be effective on the date of enactment of this Act, but shall not apply with respect any deferral of budget authority—

(A) for which the special message was submitted by the President under section 1013(a) of the Act before such date, or

(B) for which a report was made by the Comptroller General under section 1015 of the Act before such date.

(2) For purposes of applying section 1013(b) of the Act (as amended by this section) during fiscal year 1986, any deferral of budget authority—

(A) for which the special message was submitted by the President under section 1013(a) of the Act before such date, or

(B) for which a report was made by the Comptroller General under section 1015 of the Act before such date,

shall excluded from the total budget authority counted for purposes of paragraph (1) of section 1013(b) of the Act.

(3) The terms used in this subsection have the same meaning as such terms had under the Act as in effect prior to the enactment of this section.

By Mr. ROSTENKOWSKI:

—Page 34, after line 18, inset the following new section:

SEC. 206. Subsections (a)(4) and (g)(l) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) are amended by striking "1986" each place it appears and inserting "1987".

By Mrs. SCHROEDER:

—Page 34, after line 18, insert the following new section:

SEC. 206. Funds appropriated by this or any other Act for the Department of Defense or the Department of Energy may not be obligated or expended before January 1, 1987, to carry out an explosive test of a nuclear device until the President certifies to Congress that he has reason to believe that the Soviet Union has conducted, after April 17, 1986, and explosive test of a nuclear device.

# EXTENSIONS OF REMARKS

## IT'S TIME FOR SOCIAL SECURITY REFORM

HON. THOMAS J. TAUKE
OF IOWA
IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. TAUKE. Mr. Speaker, today I am introducing a bill that depoliticizes our Nation's largest entitlement program and establishes a system of claims adjudication that guarantees the independence of SSA decision makers. It also establishes an appeals process that is equitable, balanced, and much more cost effective than the current chaotic and complex system. The new appeals process will do what it should do: resolve controversies instead of creating them.

My bill is not designed to be a quick fix; it was not developed within an environment of crisis caused by reaction to any one of SSA's claims evaluation policies. Rather, my bill is the result of an exhaustive, in-depth analysis of the entire process of deciding Social Security benefit claims. In conducting this analysis, I began with certain principles regarding how an equitable and efficient appeals process should work, taking into account the enormous number of benefit claims generated under Social Security and the issues these cases present.

I think it is important to state those principles for the record:

First. The purpose of the appeals/review process is twofold: To provide claimants who are dissatisfied with an initial decision the opportunity to present, in a meaningful way, their reasons for disagreement; and to provide the agency with a meaningful oversight mechanism to ensure that adjudicators are following the policies of the agency which have been promulgated through rule making.

Second. The appeals process should be designed to allow deserving cases at the earliest possible step.

Third, Because of the 12-month duration requirement and the 5-month waiting period requirement contained in the statutory definition of disability, many cases present issues that cannot be correctly resolved at the time the initial determination is made.

Fourth. No step in the appeals process should duplicate another. Each step should have a separate and distinct function.

Fifth. As the appeals process progresses, the issues should be more narrow, albeit more complex. The issues should relate less to questions of fact and more to questions of interpretation of law and regulations. The process should replicate a pyramid; that is, start with a large base of initial claims and proceed upward with progressively fewer cases at each level of appeal.

Sixth. The issues for judicial review should essentially be confined to questions of law and agency practice.

Seventh. No issue should be the subject of judicial review that has not been addressed by the agency in the final decision.

Eighth. The appeals process should be designed to resolve controversies. Higher level decisions should be binding on lower levels unless appealed.

Ninth. When a case presents a major policy issue, for example, a challenge to a statutory or regulatory provision, the issue should be properly framed for judicial review to ensure that first, the legal question will be decided and second, there is no doubt that the decision will be precedential and binding unless appealed.

Tenth. When there is disagreement about a decision, the party that disagrees should not have the authority to unilaterally change the decision. Rather, both sides to the dispute should have the right to appeal to an independent, knowledgeable third party.

Eleventh. The appeals process should be as efficient and cost effective as possible while ensuring due process.

Mr. Speaker, I doubt that there would be much disagreement with these principles. Yet, even a cursory examination of the current appeals process for Social Security disability claims reveals that the system violates each and every one of these basic, commonsense principles. To illustrate, taking each of the principles mentioned in order:

First. In two major lawsuits, one in Minnesota and the other in New York, it was revealed that SSA was not following its own regulations in evaluating mental impairment cases.

Second. There was a steady decline in the percentage of case paid at the initial and reconsideration level and a steady increase in the percentage of case paid by ALJ's from 1976 until 1984 when the Disability Reform Act was enacted.

Third. A claimant must file for reconsideration within 60 days of the initial denial. Reconsideration has become a rubber stamp of the initial determination because it is frequently based on essentially the same evidence and must be done in many instances before it can be determined if the statutory duration requirement will be met. Also, for initial application cases, it is just another paper review and relevant evidence that can only be elicited at a face-to-face hearing cannot be considered.

Fourth. In addition to the essentially duplicative nature of the initial and reconsideration levels for initial application cases, there is also an evidentiary hearing at both the reconsideration and ALJ levels for continuing disability review cases. SSA's Appeals Council upholds the ALJ decision 90 percent of the time and its standard for review is essentially the same as the one for judicial review.

Fifth. The initial, reconsideration and ALJ levels each independently evaluate the evidence and determine the facts in the case. This is essentially nothing more than having the same question decided by three different individuals. Moreover, the evidence and issues increase as the case progresses to the ALJ level. The result: In 1983 there were 366,691 fewer initial claims than there were in 1976 but 203,805 more requests for ALJ hearings.

Sixth. Although the statutory standard for judicial review is a quite narrow appellate one, in practice the hundreds of judges in the 94 Federal district courts conduct their own independent evalution of the evidence and decide cases under their own standard instead of the regulatory standard that appears to be required by the statute.

Seventh. Plaintiffs routinely introduce issues before the courts that were not presented to the SSA during the administrative appeals process. This is a standard operating procedure for class action suits and makes a mockery of the well-established principle that before a claim is presented to a court, administrative remedies must have been exhausted.

Eighth. At the height of the continuing disability review controversy, SSA data showed that 98 percent of the disability cessation determinations issued by the State agencies were correct; yet when these cases were appealed to ALJ's, more than two-thirds were reversed. Obviously, something was wrong with the way State agencies were deciding these cases, but the ALJ decisions had no discernible effect on the evaluation practices of the State agency. Currently, there are more than 70 class actions relating to Social Security claims pending before the courts. They involve virtually every SSA policy for evaluating disability. Under court orders SSA must readjudicate hundreds of thousands of claims and apply the standard(s) imposed by the courts for pending and future cases. Cases presenting the same issue and similar facts are decided differently depending on where the claimant happens to reside. It is important to note that funds have never been budgeted to handle the enormously increased workload created by class actions.

Despite the utter chaos no resolution is in sight within the existing judicial appeals process. Even though the class action phenomenon has been extremely active for at least the past 5 years, very few cases have been ultimately decided by the Supreme Court. I am aware of three: Campbell, Ringer, and Day, all of which have been decided in favor of SSA. In view of this, it is difficult to understand the Department of Justice's reluctance to quickly and aggressively appeal these class actions. Nevertheless, the fact remains that SSA is complying with all of the court orders and thus applying different evaluation standards for different regions of the country. It is interesting to note that HHS has changed its policy on nonacquiescence. Under the new policy SSA examined more than 800 circuit court decisions to identify cases where circuit law was in conflict with SSA policy or regulations. In those instances, SSA would publish a ruling of

acquiescence. The circuit law will be followed except in a rare case that is chosen as a vehicle for litigation. The problem with this is that SSA cannot initiate judicial review. SSA has not been able to identify any major disability evaluation policy that significantly varies from circuit court law. The situation is so confusing that even though SSA apparently is desperate to acquiesce, it is not able to find anything in which to acquiesce.

Ninth. Court decisions should not create chaos, they should end it. Congress has made it clear that the courts are bound by the regulations. Moreover, under the statute the standard for judicial review by the Federal district courts is an appellate one. All too frequently, district court judges review Social Security cases in their more accustomed role as fact finders that receive evidence and create a record that is a basis for appeal to a circuit court. In effect, they function as an original decisionmaker without giving deference to the agency's findings of fact or applying the legal standard, that is, the regulations, that the agency decisionmaker must follow. The evidentiary preference of the judge and not the regulations becomes the legal standard the agency should have followed in deciding the case. In the vast majority of class actions, no regulation has been ruled invalid. When a regulation is, in fact, ruled invalid, appeal is virtually automatic. This is perhaps why SSA has been unable to find significant conflicts between regulation policy and circuit court law. I think it is fair to say that in practice the legal standard for evaluating and reviewing Social Security claims is not being consistently followed by the courts. Section 205(a) of the Social Security Act gives exclusive rulemaking authority to the agency "to establish procedures, not inconsistent with the provisions of this title,* * * and to adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs of evidence and the method and taking and furnishing the same in order to establish the right to benefits hereunder." It is clear, then, that Congress intended to regulations to be followed as the legal standard in the adjudication of Social Security claims. Clearly, the courts should not originate the legal and evidentiary standards. As stated in section 205(g), when a claim is denied "because of failure of the claimant * * * to submit proof in conformity with any regulations prescribed under subsection (a) hereof, the Court shall review only the question of conformity with such regulations and the validity of such regulations."

It should also be clear that a court may not invalidate a regulation on first impression and/or because the judge disagrees with the regulation. There should be a colorable claim, the regulation must be the only bar to a favorable decision and the regulation, in accordance with section 205(a), must be inconsistent with the statute.

If the courts would more closely follow the statute, the litigation process would certainly be considerably less chaotic.

Tenth. All determinations by State agencies on initial application claims are subject to review and reversal, without notice to the claimant, by SSA and all ALJ decisions are subject to own motion review and reversal, after notice to the claimant, by SSA's Appeals Council. Thus, throughout the first three steps of the process, the agency can second guess decisionmakers who are operating under duly delegated authority. Of course, there must be oversight authority for the agency to ensure that its regulations are being correctly applied but this is a cumbersome way of achieving that purpose.

Eleventh. I think the above illustrates that the current system is inordinately costly, time consuming and inefficient.

Mr. Speaker, it is obvious that we have a system that is in need of comprehensive reform. The problem cannot be solved by making a change or adjustment at one level of the process. We have learned the painful lesson that if one part of the process does not function properly, then the whole structure will eventually break down. We must have an appeals process in which each component is interrelated with the others, a process that is synergistic with built-in checks and balances that will ensure that the system will do what it is designed to do.

The bill I have introduced encompasses all of the above-stated principles which are essential for a well-functioning appeals process and it completely depoliticizes the process. My proposal will:

First. Establish the Social Security Administration as an independent agency. An independent agency is desirable in and of itself but it fits hand-in-glove with legislation that reforms and depoliticizes the appeals process for social security claims. A particularly important feature is the establishment of the position of beneficiary ombudsman. It is simply impossible to eliminate red tape in a system as large as Social Security. Problems will occur and the public must have an authorative spokesperson within SSA to represent public interest, especially in the area of developing rules and procedures. Another major responsibility of the ombudsman will be to ensure that SSA is following its rules in the evaluation of benefit claims. Problems such as the incorrect evaluation of mental impairments would have been identified and corrected quickly if there had been an ombudsman, and protracted and costly litigation would have been avoided.

Second. Reform the appeals process:

First. Replace the reconsideration level with a full evidentiary hearing conducted by a Federal employee for both initial and continuing disability claims. For initial application cases, allow 6 months for a request for this hearing to be filed. For continuing disability review cases, allow 60 days.

These evidentiary hearings will be conducted by a corps of highly trained, specialized Federal hearing officers to ensure the consistency of decisions. There will be equal compensation of hearing officers among the States.

The hearings will be nonadversarial in nature. SSA will not have a representative present. Favorable decisions will not be subject to review and reversal by the SSA before the payment of benefits. SSA will be able to appeal decisions with which it disagrees to administrative law judges, as can claimants who are dissatisfied with the hearing officer's decision.

Second. Change the function of the ALJ level to that of deciding first, did the claimant have a full opportunity to present his claim? Second, was the record adequate for a proper decision? and third, did the hearing officer correctly apply the statute and regulations to the facts presented by the case? Deference will be given to the judgment of the hearing officer as the fact finder.

ALJ's are particularly well-qualified to perform this function. They will primarily decide questions of law after the submission of arguments by the claimant and agency—that is, the ALJ will decide issues relating to due process and conformity with statutory and regulatory provisions.

Third. Eliminate the administrative review by the appeals council. With the change in the function of the ALJ level, the appeals council's administrative review will be unnecessary.

Fourth. Establish a Social Security court.

Like the Tax Court, the Social Security court will be a specialized court separate from the judicial branch. SSA law and regulations will be binding on the court, and therefore the court will not have jurisdiction to rule on constitutional matters or the validity of regulation issues.

The Federal district courts will retain jurisdiction over issues relating to constitutional questions or validity of regulations issues. In order to properly frame issues for district court rulings, the claimant and the SSA will stipulate that first, there is no dispute as to the facts of the case; and second, the only bar to a favorable decision is a provision of the SSA law or regulations. The court's ruling will be binding unless appealed to the court of appeals for the Federal circuit, but will have prospective effect only. This will end the nonacquiescence controversy.

All other issues arising from disability claims, including the adjudicative practices and policies of SSA, will be under the sole jurisdiction of the Social Security court.

As with the tax court, qualified nonattorneys may represent claimants upon certification by the Social Security court, or the claimants may represent themselves.

The decisions of the court will be precedential and binding on SSA unless appealed. Claimants and the SSA may appeal court decisions to the court of appeals for the Federal circuit.

Third. Allow a claimant to have only one claim pending before SSA at a time. Under current law, claimants may allege the same onset of disability continuously, even though prior applications covering the period of alleged disability have been finally decided. Also claimants may file subsequent applications before the original one has been finally decided.

My bill will limit the retroactive date for the establishment of a period of disability to the later of first, the first day of the 17th month prior to the month the application is filed. or second, the first day of the month following the month of a final decision on a prior application. The bill will also preclude the reopening of final decisions unless they were procured by fraud or similar fault.

Fourth. Eliminate own motion review by SSA of favorable decisions issued by hearing

officers or ALJ's and replace it with a mechanism for agency appeal. If the Agency believes that a hearing officer has not correctly applied the law and regulations to a case, they may appeal to an ALJ. This independent third party will decide whether or not the hearing officer's decision was legally sufficient. Similarly, if the agency believes the ALJ erred, it will have the right to appeal to the Social Security court. This will ensure that the necessary oversight authority of the Agency continues and at the same time allow disputes to be quickly and authoritatively settled by highly qualified third parties. Also, for the first time, a court will review allowances as well as denials which will provide a more balanced perspective.

Although the appeals council's administrative review will be eliminated, they will review ALJ decisions for possible appeal to the Social Security court.

Fifth. Provide interim benefit payments to claimants if SSA appeals a decision of a hearing officer or ALJ. These payments would begin 60 days after the date of the appeal of a decision and would continue until a final decision was issued either by the ALJ or the Social Security court. Those payments would not be considered an overpayment and would not be subject to recovery.

Mr. Speaker, I believe that these provisions completely conform to the above-stated principles. The claimant and the Agency have the same appeal rights. The initial level of adjudication will continue to perform its function of paying obvious allowances quickly. In this regard, it is important to note that the vast majority of claims that will be allowed at the initial decision level—historically, at least 75 percent. The more complex cases will be decided at the second stage with the claimant being able to fully present his claim in a nonadversary hearing. Beyond the hearing level the issues will be primarily legal rather than factual. Major policy and legal controversies will be resolved in a speedy, orderly and binding manner. The Social Security court will operate under the same legal standards as the agency, and the Federal judiciary will retain its jurisdiction to decide constitutional questions and issues relating to regulatory conformity with the statute but only within the pure context of the legal question presented. The reformed process will be much less time consuming and more cost effective.

I am convinced that this comprehensive legislation is the most viable approach to depoliticizing the Social Security program and making it more equitable and efficient. Band-aid, piecemeal solutions in reaction to crises have not worked in the past.

The adjudicative/appeals process is the key to a long-lasting solution. If the process has as its cornerstone a system of checks and balances where disputes are settled by independent and knowledgeable third parties, the pendulum swing from loosely applying the definition of "disability," which culminated in the 1980 amendments by requiring the periodic review of those on the disability rolls, to strictly applying the definition, which culminated in the Disability Benefits Reform Act of 1984, will stop close to an ideal balance. At the same time, especially in this time of budgetary constraints, the process must be timely, efficient, and cost-effective.

## IMMIGRATION REFORM URGENTLY NEEDED

### HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. FISH. Mr. Speaker, on Tuesday, March 11, 1986, the chairman of the Judiciary Committee, PETER RODINO, and I, along with Senator ALAN SIMPSON, Congressman MAZZOLI, and Congressman LUNGREN, met with the President at the White House on the subject of immigration reform. It was a very fruitful meeting and the President unequivocably lent his support to the adoption of immigration reform legislation. On the next day, March 12, the Attorney General of the United States echoed this position when he appeared before the full Judiciary Committee.

Many of us who have worked long and hard to enact comprehensive immigration reform legislation, welcome the President's endorsement and applaud him and the Attorney General for assuming a leadership role.

Time is of the essence. Apprehension on our Sourthern borders have shot up dramatically in the first 3 months of 1986, as compared to 1985. We are seeing aliens from many countries, including Mexico. Violence is also on the upswing.

I wish to insert for the RECORD a copy of an article which appeared in the March 12, 1986 issue of Christian Science Monitor, and which underscores the level of violence which is fast becoming commonplace along Southern portions of our border.

VIOLENCE SURGES WITH ALIEN INFLUX

(By Scott Armstrong)

SAN YSIDRO, CA.—Violence along the border is surging as the number of illegal immigrants entering the United States from Mexico hits new highs.

It comes in two forms: attacks against the aliens, mainly by bandits, and assaults against Border Patrol agents themselves, usually by "illegals" resisting arrest.

"It is a very serious problem," says Alan Eliason, chief United States Border Patrol agent in the San Diego sector.

Criminal activity is increasing at many points along the border, from Texas to California. But the violence is most pronounced south of San Diego, a region one agent calls the "Russian front" of the US-Mexican border. This area is the main thoroughfare for illegal aliens heading north. Last year, the San Diego sector accounted for 36 percent of all illegals arrested along the US-Mexican border.

All this means more work for the Border Crimes Prevention Unit, a joint task force formed two years ago by the Border Patrol and the San Diego Police Department.

Antonio Ruiz, a member of the unit, has his bulletproof vest on and .38 pistol at his hip. He is ready for another night of trying to stop violence along this porous section of the border. The short, sturdily built Ruiz will spend the night with nine other officers walking a series of jojoba-studded canyons that separate Tijuana, Mexico, from this southern California town.

Ironically, their mission of thwarting border crime includes protecting illegal aliens slipping into the US from bandits seeking to rob them. But the agents themselves are often attacked by "illegals" resisting arrest.

In the first four months of fiscal 1986 (Oct. 1–Jan. 31), 43 assaults were reported against Border Patrol agents in the San Diego sector—almost double the number in the same period a year ago. Throughout the Border Patrol's western sector, stretching from California through Arizona, 60 attacks have been recorded against agents in the first quarter of fiscal 1986, a 66 percent increase over last year.

Agents in Texas have been involved in three shooting incidents with aliens in the past year. The encounters underscore a disturbing trend: A growing number of immigrants being arrested along the border are armed with guns and knives.

"In the past, we would never arrest an alien [and find that he or she was carrying a firearm," says an agent at the US Border Patrol's southern regional office in Dallas. "Now it is quite common."

Immigration officials attribute part of the increased violence to the sheer volume of illegals now entering the US. The Immigration and Naturalization Service estimates that as many as 1.8 million aliens will be arrested during 1986—a 50-percent jump over last year's record pace. Most of them will be unemployed Mexicans, driven to the US by economic woes at home.

Another contributing factor, officials say, is the increase in drug smuggling across the border, which has brought a corresponding increase in crime of all kinds.

A more frequent source of violence along the border, however, is the attacks by bandits against immigrants. Most of this activity occurs in a 10-square-mile area straddling San Ysidro and Tijuana. The area, a favortie route of illegals, is laced with grassy canyons that make good cover for the bandits. Typically, they work in groups of three or more and jump the aliens at night. The bandits, usually from the Mexican side, then scamper back across the border with their loot.

"The criminals now tend to be a little more vicious," says Mr. Eliason. He notes that some bandits, when attacking a group, will shoot one alien to let the rest know they mean business. There has also been a recent upswing in assaults against illegals by US residents in the streets of San Ysidro.

Last year, 176 robberies, 8 murders, and 15 rapes were recorded against aliens, mostly in the San Diego sector. But police say the numbers don't reflect the extent of the problem, because the illegals, fearful of being sent back across the border, often don't report crimes.

One factor contributing to the high number of assaults lately, some officers suggest, is the changing mix of aliens flooding across the border. In recent months, more families have been trying to enter the US. They make tempting targets for bandits, who like to prey on the most vulnerable groups.

Moreover, there has also been a surge in the number non-Mexican illegals crossing the border. Since many travel great distances, such as from El Salvador, they usually carry along many possessions.

"They tend to be a little bit better targets," says Arthur Palmer, a sergeant with the San Diego Police Department.

Nevertheless, the Border Crimes Prevention Unit, formed two years ago, seems to

have put a dent in the problem. Local officials credit the 12-member force with holding down the number of attacks by bandits.

## TERRORISM AND A FREE PRESS

HON. ROBERT GARCIA
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. GARCIA. Mr. Speaker, Katherine Graham, chairman of the board of the Washington Post, wrote a very insightful essay on the role of a free press in covering acts of terrorism published in yesterday's Post.

The importance of the press in reporting such acts to the public cannot be minimized. Ms. Graham has, however, drawn a fine but distinct line between maintaining the freedom of the press in covering these acts and the way in which a responsible media ought to behave under such conditions. Her essay can serve as food for thought for all of us as we begin to grapple with the problems that terrorism inflicts on our society and its institutions. I urge my colleagues to read her essay.

The essay follows:

[From the Washington Post, Apr. 20, 1986]

SAFEGUARDING OUR FREEDOMS AS WE COVER TERRORIST ACTS

(By Katharine Graham)

Picture a warm and sunny day, not in Athens or Cairo, but in Washington. The Israeli prime minister is in town and is scheduled to meet the president.

At 11 a.m. the leader of an obscure Muslim sect and several accomplices armed wth guns and machetes storm the headquarters of B'nai B'rith. Three other members of the group seize the city's Islamic Center and two more fanatics invade City Hall, killing a radio reporter in the process. Altogether, the terrorists take 134 hostages in three buildings by gunpoint, force them to the floor and threaten to kill them unless their demands are met.

The news media, as one might expect, descend on the scene en masse. Live television pictures carrying the group's warnings and demands soon go forth over the airwaves. One hundred and thirty-four lives hang in the balance, as reporters compete to get exclusive interviews with the terrorists.

This crisis actually happened, on March 9, 1977, when the Hanafi Muslims staged a terrorist attack on the very day Prime Minister Yitzhak Rabin was meeting with President Jimmy Carter. Happily, it ended with the surrender of the terrorist and no further loss of life.

The Hanafi incident illustrated a troubling fact about modern terrorism: It requires an audience. The terrorist has to communicate his own ruthlessness—his "stop-at-nothing" mentality—in order to achieve his goals. Media coverage is essential to his purpose. If terrorsim is a form of warfare, as many observers now believe, it is a form in which media exposure is a powerful weapon.

As terrorism increases, we in the news media are being encouraged to restrict our coverage of terrorist actions. British Prime Minister Margaret Thatcher, for example, has proclaimed: "We must try to find ways to starve the terrorist and the hijacker of the oxygen of publicity on which they depend." Many people, including some reporters in the United States, share her view. Most of these observers call for voluntary restraint by the media in covering terrorist actions. But some go so far as to sanction government control—censorship, in fact—should the media fail to respond.

I disagree. I am against any government-imposed restrictions on the free flow of information about terrorist acts. Instead, I am in favor of as full and complete coverage of terrorism by the media as is possible. Here are my reasons:

Terrorist acts are impossible to ignore. They are simply too big a story to pass unobserved. If the media did not report them, rumor would abound. And rumors can do much to inflame and worsen a crisis.

There is no compelling evidence that terrorist attacks would cease if the media stopped covering them. On the contrary, terrorism specialists I have consulted believe the terrorists would only increase the number, scope and intensity of their attacks if we tried to ignore them.

Our citizens have a right to know what the government is doing to resolve crises and curb terrorist attacks. Some of the proposed solutions raise disturbing questions about how and when the United States should use military force.

In covering terrorism, however, we must also recognize that we face very real and exceedingly complex challenges. There are limits to what the media can and should do. Three critical issues, in particular, must be addressed. All touch the central question of how the press can minimize its role as a participant in the crisis and maximize its role as a provider of information.

RESPONSIBLE BEHAVIOR

The first issue involves knowing how to gather and reveal information without making things worse, without endangering the lives of hostages or jeopardizing national security. One television news executive bluntly explained to me: "Errors that threaten loss of life are permanent; others are temporary. If we have to make mistakes, we want to make the temporary kind."

In the early days of covering urban violence and the first terrorist attacks, the media would descend on the scene—lights ablaze and cameras rolling—in hot pursuit of the news. Sometimes we didn't know what could put lives at risk. And we were often less than cooperative with the police attempting to resolve the crisis.

During the Hanafi Muslim attack that I described earlier there were live television reports that the police were storming a building when, in fact, they were merely bringing in food. Some reporters called in on public phone lines to interview the terrorists inside the building. One interview rekindled the rage of the terrorist leader, who had been on the point of surrender.

These potential disasters led to discussions between the police and the media, and to a more professional approach and mutual trust on both sides. For example, most authorities now know that at the beginning of a crisis, it is best to establish a central point where reliable information can be disseminated quickly and efficiently. And the media, knowing that the authorities intend to help them obtain the information they need, are much more willing to cooperate.

I want to emphasize that the media are willing to—and do—withhold information that is likely to endanger human life or jeopardize national security. During the American embassy crisis in Iran, for example, one of our Newsweek reporters became aware that six Americans known to have been in the embassy were not being held by the Iranians. He concluded that these men must have escaped to the Swedish or Canadian embassies. This in fact had occurred. However, we (and some others who also knew) did not report the information because we knew it would put lives in jeopardy. Similarly, when a group of Lebanese Shiites hijacked TWA Flight 847 with 153 hostages aboard last year, the media learned—but did not report—that one hostage was a member of the U.S. National Security Agency.

Tragically, however, we in the media have made mistakes. You may recall that in April 1983, some 60 people were killed in a bomb attack on the U.S. embassy in Beirut. At the time, there was coded radio traffic between Syria, where the operation was being run, and Iran, which was supporting it. Alas, one television network and a newspaper columnist reported that the U.S. government had intercepted the traffic. Shortly thereafter the traffic ceased. This undermined efforts to capture the terrorist leaders and eliminated a source of information about future attacks. Five months later, apparently they same terrorists struck again at the Marine barracks in Beirut; 241 servicemen were killed.

This kind of result, albeit unintentional, points up the necessity for full cooperation wherever possible between the media and the authorities. When the media obtains especially sensitive information, we are willing to tell the authorities what we have learned and what we plan to report. And while reserving the right to make the final decision ourselves, we are anxious to listen to arguments about why information should not be aired.

THE DANGER OF MANIPULATION

A second challenge facing the media is how to prevent terrorists from using the media as a platform for their views.

I think we have to admit that terrorist groups receive more attention and make their positions better known because of their acts. Few people had even heard of groups like the Hanafi Muslims or Basque Separatists before they carried out terrorist attacks.

The media must make every attempt, however, to minimize the propaganda value of terrorist incidents and put the actions of terrorists into perspective. We have an obligation to inform our readers and viewers of their backgrounds, their demands and what they hope to accomplish. But we must not forget that terrorists are criminals. We must make sure we do not glorify them, or give unwarranted exposure to their point of view.

We often think of terrorists as unsophisticated. But many are media savvy. They can and do arrange their activities to maximize media exposure and ensure that the story is presented their way. As one terrorist is supposed to have said to his companion: "Don't shoot now. We're not in prime time."

Terrorists have taken the following steps to influence media coverage: arrange for press pools; grant exclusive interviews during which favored reporters are given carefully selected information; hold press conferences in which hostages and others are made available to the press under conditions imposed by the captors; provide videotapes that portray events as the terrorists wish them to be portrayed, and schedule the release of news and other events so that television deadlines can be met.

There is a real danger, in short, that terrorists hijack not only airplanes and hostages, but the media as well.

To guard against this, the television networks in our country rarely—almost never—allow terrorists to appear live. They also resist using videotape provided by terrorists. If there is no alternative, our commentators continually report that the material is "terrorist-supplied" so that viewers can evaluate its veracity and meaning. Likewise, when terrorists make hostages available for interviews, our commentators repeatedly indicate—or they should—that the captives are speaking under duress.

When one network reporter interviewed the hostages in the recent TWA hijacking by telephone, he said: "Walk away from the phone if you're under duress, or if you don't want to talk." One of them did walk away. Even when there is no evident coercion, the networks repeat that terrorists are standing by, although they are not visible on the screen. We also try to identify carefully and repeatedly the backgrounds and biases of the people we interview, including the hostages themselves.

Forbidding terrorists their platform goes beyond using specific techniques. It is more an issue of exercising sound editorial judgment.

Over the years, the media constantly have been confronted with attempts at manipulation. In the days of the Vietnam war, for example, we would get calls from protest groups saying "We're going to pour chicken blood all over the entrance to Dow Chemical Company. Come cover this event." We didn't. But we did cover a Buddhist monk who wished to be filmed setting fire to himself.

How did we make the distinction? Here it was a question of trivial versus serious intent and result, of low versus high stakes. Clearly, the suicide was of cataclysmic importance to the monk.

The point is that we generally know when we are being manipulated, and we've learned better how and where to draw the line, though the decisions are often difficult.

A few years ago, for example, a Croatian terrorist group in a plane demanded that its statement be printed in several newspapers, including The Washington Post, before it would release 50 hostages. In the end, we printed the statement in agate, the smallest type size we have, in 37 copies of the paper at the end of our press run. Now I'm not so sure we would accede to this demand in any form.

THE HEAT OF COVERAGE

That brings me to a third issue challenging the media: How can we avoid bringing undue pressure on the government to settle terrorist crises by whatever means, including acceding to the terrorist's demands?

State Department officials tell me that media coverage does indeed bring pressure on the government. But not undue pressure. However, I believe there are pitfalls of which the media should be exceedingly careful.

One is the amount of coverage devoted to a terrorist incident. During a crisis, we all want to know what is happening. But constant coverage can blow a terrorist incident far out of proportion to its real importance. Overexposure can preoccupy the public and the government to the exclusion of other issues.

During the TWA crisis, our networks constantly interrupted regularly scheduled programming with news flashes of dubious importance. And one network devoted its entire 22-minute evening newscast to the crisis. Many important topics were ignored.

The media have become aware of these dangers. The network coverage of the Achille Lauro incident was much more restrained. Some say it was only because it was difficult to cover and the crisis ended quickly. But the networks got better notices from the critics and the public.

Interviewing the families of hostages is another pitfall. There is a natural curiosity about how those near and dear to the captured are reacting to the life-or-death event. And the hostage families themselves often are anxious to receive media attention and present their views to the public.

But there is a fine line between legitimate inquiry and exploitation of human sentiment. The media can go too far. Tasteless invasion of privacy can result. The ultimate horror is the camera that awaits in ambush to record the family's reaction to the news of some personal tragedy.

There is also a real danger that public opinion can be unjustifiably influenced by exposure to the hostage relatives and their wives. The nationwide television audience becomes, in a sense, an extended family. We get to know these people intimately. Our natural sympathies go out to them. We often come to share their understandable desire to have their loved ones back at any cost.

This can force a government's hand. Last May, Israel released more than 1,000 Arab prisoners in exchange for three Israelis being held in Lebanon. It was an action that ran counter to Israeli policy. But the appearances of the families of the Israeli prisoners on television apparently made the Israeli government think it was a necessity.

I believe the media must be exceedingly careful with the questions they ask the relatives and, of course, the hostages themselves. When we ask if they agree with the government's policy or its handling of the incident, what they would do if they were in charge, or if they have messages for the president, we are setting up a predictable tension: Hostages and their families are, understandably, the most biased of witnesses. The media must exercise the same standards with them as they would with any other news source.

A final pitfall for the media is becoming, even inadvertently, a negotiator during a crisis. But it's tough to avoid. Simply by asking legitimate questions—such as "What are your demands?"—the media can become part of the negotiating process. Questions that ask "What would you do if . . ." are particularly dangerous. The question put to Nabih Berri, the Amal Shiite leader, during the TWA crisis by the host of one of our morning news shows was completely out of line and is so acknowledged. He asked: "Do you have a message for the president?"

As much as we abhor terrorism, the media cannot be diplomats, negotiators or agents for the government. If terrorists or urban rioters believe we are—if they believe, for example, that we will turn over our unused tapes, or pictures, or notes to the police—they will not give us information. They may even attack us.

Technology intensifies our problems. Before the advent of satellites, there was usually a 24-hour delay between the moment news was gathered overseas and the moment it was broadcast. Indeed, what appeared on the nightly news often had been in the morning paper. This meant that television news executives had at least some amount of time in which to reflect, discuss and decide on whether a story should be broadcast and how it should be presented.

Today our networks have the technological capability to present events live—any time, any place. As a result, the decisions about what to cover and how to cover are tougher. And they must be made faster, sometimes on the spot. The risks of making a mistake rise accordingly.

Intense competition in the news business raises the stakes even more. The electronic media in the United States live or die by their ratings, the number of viewers they attract. As a result, each network wants to be the first with the most on any big story. It's hard to stay cool in the face of this pressure.

This has created some unseemly spectacles and poor news decisions. During the TWA crisis, for example, the U.S. networks ran promotion campaigns on the air and in print touting the scoops and exclusive that each had obtained. This commercialized and trivialized a dangerous and important event.

The most dangerous potential result of unbridled competition is what we have come to call the lowest-common-denominator factor. I believe that all of the serious, professional media—print and electronic—are anxious to be as responsible as possible. We want to do nothing that would endanger human life or national security. But, unfortunately, high standards of professionalism do not guide every media organization and reporter. And I regret to say that once one of these less scrupulous or less careful people reports some piece of information, all the media feel compelled to follow. Thus it is true: The least responsible person involved in the process could determine the level of coverage.

These problems of covering terrorism are serious. But in spite of them, I believe the benefits of full disclosure far outweight any possible adverse consequences. I believe the harm of restricting coverage far surpasses the evils of broadcasting even erroneous or damaging information.

American democracy rests on the belief, which the centuries have proven true, that people can and do make intelligent decisions about great issues if they have the facts.

But to hear some politicians talk, you wouldn't think they believed it, They appear to be afraid that people will believe the terrorist's message and agree, not only to his demands, but to his beliefs. And so they seek to muzzle the media or enlist their support in the government's cause.

I think this is a fatal mistake. It is a slippery slope when the media start to act on behalf of any interest, no matter how worthy—when editors decide what to print on the basis of what they believe is good for people to know, It's dangerous if we are asked to become a kind of super-political agency.

I believe that terrorism is untimately a self-defeating platform from which to present a case. Terrorists, in effect, hang themselves whenever they act. They convey hatred, violence, terror itself. There was no clearer image of what a terrorist really is than the unforgettable picture of that crazed man holding a gun to the head of the pilot aboard the TWA jet. That said it all to me—and I, believe, to the world.

Publicity may be the oxygen of terrorists. But I say this; News is the lifeblood of liberty. If the terrorists succeed in depriving us of freedom, their victory will be far greater then they ever hoped and far worse than we ever feared. Let it never come to pass.

## ESCAPE TO FREEDOM

### HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. RITTER. Mr. Speaker, the enclosed April 10, 1986 article which appeared in the Morning Call—by Patt Morrison of the Los Angeles Times—is a chilling reminder of the reality life behind the Iron Curtain. Vladas Sakalys' 350 mile trek from Lithuanian to freedom im Sweden portrays not only the valient effort of one man, but burns a desire in our hearts to work toward freeing these captive nations.

The article follows:

ESCAPE TO FREEDOM—LITHUANIAN TREKKED 350 MILES TO FLEE SOVIET GULAG

(By Patt Morrison)

LOS ANGELES.—It was May 1980, and the KGB was looking for Vladas Sakalys.

The KGB, it seemed, was always looking for Vladas Sakalys, except for the 15 years when it had him in prison camps in Siberia, near Moscow or in his Lithuanian homeland.

Sakalys, who now works at a Los Angeles electronics company, said his run-ins with the KGB began when he was 13. His father had been a Soviet Army "collaborator", and Sakaly's schoolmates dared him to prove his Lithuanian loyalty.

He did, helping to print "Soviets Go Home!" pamphlets, a prank that earned him three days of questioning and beatings in a KGB jail, and another thrashing by his mother when he got home.

More of the same followed: at age 19, sentenced to six years; at age 26, sentenced to four years; at age 31, sentenced to five years. During his rare years of freedom—fewer than five out of 20—he was a "usual suspect," an uncooperative Lithuanian rounded up when "anti-Soviet activity" cropped up in the region.

But this, in 1980, was big trouble. Sakalys was one of 45 dissidents who signed the "Baltic Declaration," endorsed by physicist Andrei Sakharov, demanding an end to the Soviet occupation of the Baltic countries—a touchy topic in the Soviet Union, even 40 years after it began.

The KGB picked him up on a Friday, questioned him, let him go to "think about" the 10 or 15 years in prison he faced, and said he would be brought back on Monday to swear that his signature was a forgery—or be charged.

On Sunday, Sakalys slipped from surveillance and went into hiding to plan his escape, in Vilnius, a city soon plastered with "wanted" posters calling him a "dangerous criminal."

Two months later, Sakalys had left the Soviet Union the hard way: he walked.

For three weeks and more than 350 miles, he trekked across the electric-fenced, dog-patrolled forests marking the Soviet border, and through the icy marshes of Finland, whose police hand escapees back to the Soviets.

Feverish and barefoot, he stumbled into Sweden on July 19, opening day of the Moscow Olympic Games, to the bemusement of Swedish police.

That was 1980, Sakalys is 44 now, living in a Los Angeles beach community apartment. He came to the United States through an aunt in New Jersey and moved to Los Angeles two years ago, following a Lithuanian friend, defector Simas Kudirka, the sailor who jumped ship off Martha's Vineyard in 1970 and who later befriended Sakalys in New York.

Sakalys reminisced recently about his walk to freedom—something no more than a dozen people have been known to do. He said he felt free to speak fully, now that he has learned his companion-in-escape, who changed his mind and turned back at the Soviet border, was later arrested for trying the same thing and is now serving a 15-year sentence.

It was with this friend from prison that Sakalys lay low during June 1980, then slipped onto a train in Jura headed for the northwestern border, a train loaded with drunk, rowdy soldiers. Sakalys pretended to be sleeping off a bender, too.

"We knew it was practically impossible to escape. I wasn't really planning to escape to the West, but it was a really desperate situation."

When the train halted for a momment in the "white night" of an Arctic summer, they jumped and ran.

They walked 127 miles in 10 days, sometimes waist-deep in icy water. Then, at the first electric sensor fence, they waited for the dog patrol to pass. "I said, 'Let's go.' He said 'No, I'm afraid.' It was maybe the worst moment of my life," but he understood his friend's reluctance. "I was in a desperate situation and he wasn't."

After extracting a promise of three days' silence if his friend were caught, Sakalys, propped by a tree branch, stood on his friend's shoulders and vaulted the fence. His friend tossed the backpack; it caught on barbed wire. Sakalys screamed, "Be careful!" The friend lobbed it again, and it cleared the fence.

They waved and parted. Before moving on, Sakalys carefully sprinkled the ground with naphthalene, mothball flakes, to throw the dogs off his scent, 15 minutes of caution that "felt like years and years."

It was a trick, he learned in Vladimir Prison for political prisoners, where he had glimpsed captured U-2 pilot Francis Gary Powers. It had been Josef Stalin's prison for hand-picked enemies, Sakalys said. The prison library was still full of forbidden books that no one had dared to remove: philosophy by Emmanuel Kant, politics by Niccolo Machiavelli. "It was my real university," Sakalys said.

But it was the naphthalene lesson that saved him.

After hours of walking he came to a peninsula: more fences to one side, military barracks on the other, a vast lake around—a lake deliberately not shown on his Soviet-made map. Sakalys waited until 5 a.m. and walked "like in some trance" through the barracks yard. The soldiers slept; no one noticed him as he crept through the garrison, erasing his footprints from the raked dirt as he went.

For days more, he ran, walked and swam—sometimes five miles in freezing water. Once, spotting a soldier, he waited until the sun was in the man's eyes before running.

On one lake, as he lay exhausted, naked and "white as cheese" among the reeds, his clothes bundled on his head, he saw a cutter flying the Russian naval flag, and submerged briefly, breathing through a reed.

There was no naphthalene left when he "decided just to run, because it was my last hope." For two hours, through high grass and hilly marshes, he ran—the last half-hour with barking dogs on his trail—and vaulted the two last barbed-wire fences.

And then, 10 days after he began, he saw firewood, "not stacked Russian-style, but with accuracy." He found a blue ice cream wrapper marked "Helsinki Finland." It was "the best moment of my life."

But it was Finland and he would be sent back if caught. He trudged on, staring at the "nice, painted" houses and tended gardens. "I thought I must see everything to tell in the camps. It must be enough to last me for a lifetime of talks."

Then he took a chance. At an isolated farmhouse, an old man—"old enough to remember the wars"—fed him, gave him a cigarette, packed three pounds of rye bread and gave him a map to Sweden, to freedom.

Sakalys gave the man his last possession of value—his watch—and kept walking. For 10 days more he tramped, leaping off the highway whenever a car drove by. At last, on July 19, a day after his tennis shoes gave out, he swam across "scary" rapids and stumbled up to a young boy—about the age Sakalys was when he was first arrested—and gasped out, "Is this Finland or Sweden?"

The boy looked at the apparition. "Sweden," he said in English. "Telephone police," Sakalys pleaded. (He had arrived in Tornio.)

From a Swedish jail so luxurious that Sakalys thought it was a hotel, he was finally identified by Soviet emigres who recognized him from labor camps, and freed.

He rested for six weeks there, and one day he saw his picture on a large sheet of paper, hanging on a wall. The photo, so much like the "wanted" posters, startled him "Was it telling the people to watch out for me?" he wondered.

He nervously asked a passer-by what they meant, the words beneath the newspaper picture. "He said it means, 'I am free.'"

## A SPECIAL WAY TO HONOR OUR VETERANS

### HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. SCHUETTE. Mr. Speaker, my good friend Harold Steinke has brought to my attention the fact that the Veterans of Foreign Wars from Gladwin County, Post 7303 in Michigan's 10th District have developed a way to honor their deceased companions that I wish to commend to my colleagues in Congress and to the American people.

On all holidays, the interment flags of deceased Veterans are proudly displayed along the roads outside the VFW post. The sight of our flag always serves to remind us of how precious our American way of life and our freedoms are and this awareness is heightened by knowing these flags sonce honored the remains of those who fought to protect those freedoms.

Mr. Speaker, I commend this practice of Gladwin County's Veterans of Foreign Wars, a practice which honors our country and those who have fought to protect her.

## WHY ARE KIDS KILLING THEMSELVES?

### HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. BENNETT. Mr. Speaker, I read the following editorial from the Detroit News which succinctly says that evidence indicates that there is no substitute for old fashioned parenting and that "somebody has to be crazy about the kid" as an antidote for teenage suicide. There is great common wisdom in that editorial, but even more important is the early conviction by young people, from whatever source, that no one has the right to take his own life and no one is an island to himself, and that the people who are most hurt in teenage suicide are people who are most caring, affectionate, and loving toward the people who take their own lives. If a person can see that his body, his life, and even his mere existence are things that are disposable without thought of others, this can be a tragedy not only to the person who takes his or her life but to people who are indeed loving and concerned and trying to the best of their ability to be good parents or friends. This sort of knowledge needs to be deep in the heart of all young people, and similarly, they must feel the same about the partial suicides that are occurring throughout the country by the taking of dangerous drugs and addictions therefrom. The article follows:

[From the Detroit News, Thursday, Mar. 13, 1986]

WHY ARE KIDS KILLING THEMSELVES?

Last month, Omaha was shocked by three suicides in a single week involving apparently well-adjusted teen-agers from solid homes. Exactly why they did so is still a mystery. Yet Omaha is merely the latest city to experience what has become a two-decade long, 140-percent spiral in the rate of teen-age suicide. This sad trend suggests we may need to rethink how we as a society raise our children.

Some of that rethinking already has begun. In an important article in the winter issue of Public Interest titled The Declining Well-Being of American Adolescents, sociologists Peter Uhlenberg and David Eggebeen of the University of North Carolina, question the conventional wisdom that life would improve for kids as their "environment" improved.

"The 1960s and 1970s should have been a golden era for the development of American youth," they write. "After all, indicators of what mainstream social scienstists and policy-makers regard as the important determinants of child welfare (smaller family size, rising parental education levels, and higher family income) were all going in the 'right' direction. . . . However, comparison of youth in 1980 with youth in 1960 reveals that what 'should' have happended, did not happen. Indeed most indicators of well-being show a marked deterioration."

White teen-agers aged 16 and 17, the most advantaged group, saw their family poverty rate reduced from 25 percent in 1960 to less than 10 percent in 1980, for example, while the number of children in large families (four or more siblings) fell from 21 to 14 percent. The poverty rate for those with fathers and mothers without high school educations fell from about 60 percent to about 25 percent. Overall. the researchers found that the percentage of white teen-agers with none of these "disadvantages" soared from 32 percent of their population group to 63 percent.

They also found that the per-pupil expenditures on public education had doubled, after inflation was taken into account, as had the percentage of teachers with advanced degrees. Class size, meanwhile, had actually fallen by nearly 18 percent.

Yet all this "good news" produced only "bad news." Standardized test scores fell by about 10 percent. Juvenile delinquency rates rose by 131 percent, and illegitimate birth rates jumped 141 percent. Drug and alcohol use exploded, and white teen-age violence soared, with homicide up 232 percent and suicide up 140 percent.

Messrs. Uhlenberg and Eggebeen argue that we must now question the traditional social science view that "environment" is at the root of youth problems, a view they say has "diverted attention from what may be the most critical determinant of all; the bond between child and parent."

In this area, we have seen a disturbing breakdown as evidenced by the 140-percent rise in divorce rates and the increasingly self-centered attitudes of parents. As Daniel Yankelovich found in a 1981 poll, "nearly two-thirds of all American parents reject the idea that parents should stay together for the children's sake." A similar majority feel that "parents should be free to live their own lives even if it means spending less time with their children."

Ultimately, the only solution to troubled teen-agers may well lie in what Cornell psychologist Urie Bronfenbrenner calls the "essential prerequisite" for healthy human development: "Somebody has to be crazy about the kid. . . ." Crazy enough to supervise and nourish his or her development, and to demand higher standards.

We don't suggest that the clock can be turned back, or that "a woman's place is in the home." Teen suicide no doubt has deeper and more complex roots than we can suggest here. But the evidence does indicate there's no substitute for old-fashioned parenting. How we come to grips with that in our modern, two-wage-earner economy, should be a priority issue.

## BEST WISHES, FRANK YANKOVIC

### HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. CLINGER. Mr. Speaker, Frank Yankovic, a nationally known polka music legend and master accordion player, recently became the first person to win a Grammy Award for his polka-playing abilities.

For over 35 years, Frank Yankovic has been America's undisputed king of polka music, bringing joy and happiness to thousands of people in dozens of American cities from coast to coast.

His "Just Because Polka" became the first to sell 1 million copies.

The son of Slovenian immigrants, Frank Yankovic almost lost his hands, and his career as an accordion player, to frostbite while serving his country as an infantryman in Germany during World War II.

He makes frequent appearances on network TV talk-variety programs, and being from Cleveland, I'm proud to say he plays frequently throughout Pennsylvania, including my hometown of Warren, PA, where he has entertained area audiences for over 30 years.

I know I am joined by all of my colleagues in wishing Frank Yankovic best wishes and continued success as he approaches his 71st birthday in July and his sixth decade of making people happy with the polka.

## WISHFUL THINKING ON TEST BAN MORATORIUM

### HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. COLEMAN of Missouri. Mr. Speaker, in the next few days we will consider an amendment by Congresswoman SCHROEDER to the urgent supplemental appropriations which would cut off all funds for the U.S. nuclear testing program unless the President joins the Soviet moratorium on nuclear testing. For a variety of very compelling reasons, I intend to oppose this measure.

In this regard, I recommend to all of my colleagues the following op-ed piece, written by our colleague, HENRY HYDE of Illinois, on the United States past experience with a testing moratorium—a moratorium which the Soviets broke unilaterally in 1961.

There are many lessons to be learned from this experience. I believe Congressman HYDE's article is well worth reading on the eve of our consideration of a nuclear testing moratorium amendment.

[From the Washington Times, Feb. 26, 1986]

WISHFUL TEST-BAN THINKING

(By Henry Hyde)

In the past year the banning of nuclear tests has become the new darling of some of my liberal colleagues in Congress.

Identified by the freeze movement as a priority arms control issue in 1986, this infatuation has resulted in a proliferation of bills and resolutions in both the House and Senate calling for everything from the immediate negotiation of a Comprehensive Test Ban Treaty (CTBT) to instant participation in a nuclear-testing moratorium with the Soviet Union.

Perhaps sensing that arms control—an issue jealously guarded by the Democratic Party as "its own"—was slipping through its fingers and gradually becoming the property of President Ronald Reagan, some Democrats have been scrambling to devise a new Democratic arms control strategy. As a result, nuclear strategy and the Strategic Defense Initiative have emerged as the major targets of the Democratic arms control arsenal.

The Democratic leadership in the House, urged on by liberal activists, is once again considering bringing legislation to the floor of the House of Representatives that will direct the president to begin immediate negotiations with the Soviet Union on a Comprehensive Test Ban Treaty.

In the quixotic hope that some of my liberal colleagues may recall Sen. Henry Jackson's advice that in matters of national se-

curity, "the best politics is no politics," I feel obligated to urge those attracted to the test-ban idea to be very cautious in their commitment. CTBT negotiations and nuclear testing moratoria are not new ideas, and judging from past experience, not even good ideas. In fact, both ideas have many historical antecedents.

An interestingly enough, the lessons learned from past experience are most relevant to Democrats, not Republicans.

Yet I suspect that most of my liberal Democratic colleagues are no different than most other members of Congress; we prefer to ignore the lessons of history unless, of course, they suit our own purposes. Nevertheless, I feel obliged to refresh the memories of my Democratic colleagues about the pitfalls of a well-intentioned, yet naive, pursuit of a nuclear test ban at any cost.

The test-ban saga really began in the late 1950s when the Soviet Union, the United States, and Great Britain agreed to sit down in Geneva and thrash out a comprehensive nuclear test-ban treaty. This was followed in 1958 by the United States's decision to honor a self-imposed, uninspected nuclear testing moratorium if the Soviet Union would do the same. Shortly thereafter, the Soviets agreed to such a moratorium.

The tripartite CTBT talks dragged on for three years while both the United States and the Soviet Union continued to honor the test-ban moratorium, despite the fact that more than a few Americans seriously questioned the Soviet Union's motives and intentions in both areas. But even after 338 meetings of Soviet, British, and American CTBT negotiators, the Kennedy administration was not willing to throw in the towel and concede that the basic problems preventing a CTBT agreement with the Soviet Union were unresolvable.

Unfortunately, this perseverance was not rewarded. On Aug. 31, 1961, after three years, the Soviet Union shocked the world by announcing that it was unilaterally withdrawing from the testing moratorium and that it intended to test a 100-megaton "superbomb" in the very near future. Within two days, the Soviet Union did in fact conduct an atmospheric nuclear test over Soviet Asia.

The Kennedy administration reacted strongly, voicing outrage over the Soviet action, and President Kennedy expressed his deep dismay at what he considered to be an astounding display of Soviet duplicity. Later President Kennedy was to say:

"We know now enough about broken negotiations, secret preparations, and the advantages from a long test series never to offer again an uninspected moratorium."

This sense of betrayal was not limited to the president. In a speech given only a day after the Soviet announcement, Sen Hubert Humphrey asserted:

"The Soviet Union's decision to resume nuclear testing is a cruel and vicious blow to the cause of peace. It represents a cynical disregard for the well-being of humanity. It demonstrates the hypocrisy of the Soviet Union and its so-called peace program.

"The entire world now knows that the men in the Kremlin are consumed with ambition and power, without any regard for justice and peace."

But perhaps more relevant for today's Democrats, who justifiably consider him a hero, are Sen. Humphrey's remarks in this same speech about the Soviet Union's use of the ongoing CTBT negotiations as a charade to further their own nuclear research and development program.

"In recent days, Arthur Dean, our chief negotiator, returned to Geneva with further concessions to meet the objections of the Soviet Union. Every effort on our part has been rebuked or rebuffed by the Soviets. It has become crystal clear that the Soviet Union sought to renew tests and was doing everything possible to break up the conference at Geneva. The Soviets hoped to drive the United States into renewing tests first, thus giving them a propaganda victory and an excuse to resume Soviet tests."

Even the media were completely taken aback and appalled by the Soviet announcement. For example, The New York Times, hardly a voice of ultraconservatism, ran an editorial on Sept. 1, 1961, entitled "Soviet Policy of Terror" which observed:

"In an action that shocks the world and edges it closer to the brink of atomic holocaust, Premier [Nikita] Khrushchev announces that the Soviets are resuming nuclear testing to produce monstrous superbombs capable of being dropped at any point on the globe from space.

"To achieve this goal, for which he evidently deems the time to be ripe, the Soviet Caesar displays the utmost contempt for world opinion. His attempt to shift the blame for his own action on those who would resist his efforts to 'bury' them is so ludicrous and hypocritical that it is repudiated everywhere outside of the Communist-dominated world."

But perhaps the most telling portion of the editorial dealt with the CTBT negotiations themselves. Once again, present-day proponents of nuclear testing moratoria and test-ban negotiations should note these words well, for they sound all too familiar.

". . . the Soviets have sabotaged everything, denouncing controls as espionage, walking out of or demanding constant changes in the disarmament forums, offering sweeping propaganda proposals they have no intention of honoring . . .

". . . Beyond that, Premier Khrushchev's action again demonstrates that the whole Soviet propaganda for both a nuclear test ban and total disarmament is only a gigantic hoax perpetrated on the world."

Even more interesting was Congress's reaction to this event. In this regard, there are some striking present-day ironies. For while the Democratic Party of the 1980s is currently throwing its weight behind a resolution which demands that President Reagan enter into CTBT negotiations to ban nuclear tests, it was the Democratic Party of the 1960s which sponsored legislation in 1969 demanding that the President of the United States resume nuclear testing. The day after the Soviet breakout, the then Democratic Senator from Connecticut, Thomas Dodd, offered a resolution on the floor of the Senate (including as co-sponsors Sens. Jackson, Herman Talmadge, and Strom Thurmond among others) which called for the immediate resumption of nuclear testing by the Kennedy administration. Sen. Dodd's accompanying statement in the Congressional Record leaves little question about his feelings on the advisability of test-ban moratoria:

"We must take the Soviet announcement as an indication that our worst misgivings about the test moratorium have been justified. During all the time that we have been crippling our own development of those vital offensive and defensive weapons that depend upon testing, the Soviets have been perfecting their nuclear technology to the point where they are now ready for a series of tests which may mark staggering advances in their effort to subjugate the world . . .

". . . Let us not delude ourselves with talk about a propaganda victory. At best, it is a cheap and transitory thing that will be forgotten in a month. What we have here is a crushing defeat. In abandoning our nuclear weaons development for three years, we have gambled our national defense and our survival on the fatuous hope that the Russians were sincere in desiring a test ban."

These concerns were also reflected in the statements of other Senate Democrats, including a Democratic senator from Tennessee who accused the Soviet Union of trying to "blackmail" the U.S. allies in Europe into surrendering to the Soviet Union. His name was Albert Gore.

Obviously, the 1961 Soviet renunciation of the test-ban moratorium left deeply felt wounds in the United States, particularly in the Democratic Party. But least my Democratic colleagues rush to say that these are merely historical footnotes from days gone by, let's not forget that this was not the last time the CTBT negotiations or arms control in general fell victim to unacceptable Soviet behavior.

In many respects, one would expect the Democratic Party to be the most hard-nosed in its policy toward the Soviet Union, since it has been Democratic presidents who have been most rudely treated by the Soviet Union in the arms-control area.

Have my Democratic colleagues of the '80s forgotten that it was the Soviet invasion of Afghanistan which struck down both the SALT II agreement and the CTBT negotiations undertaken by President Jimmy Carter? Who can forget his statement in late 1979?

"This action of the Soviets has made a more dramatic change in my own opinion of what the Soviets' ultimate goals are than anything they've done in the previous time I've been in office."

And not even President Lyndon Johnson was spared such an experience, although it was not in the CTBT area. Many people have forgotten that the Johnson administration aggressively pursued a SALT I agreement with the Soviet Union in 1968.

Indeed, after extensive meetings in Washington, on Aug. 19, 1968, Soviet Ambassador Anatoly Dobrynin (the current dean of the Washington diplomatic corps) informed the Johnson White House that he had received word from Moscow that the Soviet government had agreed to a SALT summit at the end of September.

Unfortunately, the excitement at the White House was short-lived, for the very next day, Aug. 20, Soviet troops invaded Czechoslovakia. President Johnson canceled the 1968 SALT summit.

I don't wish to be misunderstood. I am not demanding that Democrats use these historical experiences as an absolute guide for their actions today. On the other hand, how can they afford to ignore these lessons? Yet, in their eagerness to garner an arms-control issue they can call their own, that's exactly what they are doing. If this is so, then I suggest the test-ban issue is the wrong issue. It attempts to substitute good intentions for negotiations, and it undermines an arms-control process that is already under way:

The following haunting comment from the late Sen. Dodd in 1961 deserves to be pondered:

"What was obvious to some is now clear to all. The proof is now in that the protracted negotiations at Geneva (CTBT) were part of the conflict strategy of the Soviet Union.

Through these negotiations they were able to inactivate our nuclear weapons technology; to greatly reduce the credibility of our nuclear deterrent; to foster the illusion of coexistence to carry on their own nuclear weapons program in secret, in preparation for a political showdown at a point of their own choosing.

"Now we can only hope that the incredible, wishful thinking that permitted our one-sided test ban to drag on for three years is so thoroughly discredited that we may resume, with realism and sanity, our struggle for survival against an enemy that continues to fatten on our mistakes."

## AMERICA IS NOW ENGAGED IN A NEW KIND OF WAR

### HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. COUGHLIN. Mr. Speaker, repeated acts of terrorism directed by Libyan dictator Mu'ammar Qadhafi and others against women, children, and the handicapped have apparently reawakened the realistic understanding that the world can be a hostile place and that America must be prepared to act in defense of its strategic interests, its values and its citizens.

Proof of this can be found in an April 18, 1986, editorial of the Philadelphia Inquirer, which has more often opposed than supported the Reagan administration in its conduct of foreign affairs and national defense.

While reminding its readers of the importance of the lessons of the past as they were learned in the crucible of conflicts ranging from World War I to Vietnam, the Inquirer editorial stated, "* * * the time has come to move beyond paralysis inspired by fear of the past."

The Reagan administration's argument on behalf of responding to terrorism with carefully applied military force is clear and coherent, the editorial states. "The essential concept is recognition of terrorism 'as a modern tool of warfare.' From that premise all else follows," the editorial reasons.

"Terrorism is the handmaiden of Soviet totalitarianism. Both threaten all Western democracies. Division among the allies over how to wage counterterrorism weakens the alliance overall. Had the European allies joined America in enforcing economic sanctions against Libya, force might have been avoided. Instead all but Britain's Margaret Thatcher preferred appeasing Colonel Qadhafi to isolating him," the editorial states.

The editorial follows:

[From the Philadelphia Inquirer, Apr. 18, 1986]

AMERICA IS NOW ENGAGED IN A NEW KIND OF WAR

In the aftermath of the U.S. airstrike against Libya, events and political dynamics are following thick and fast. Harsh words are being exchanged among members of the Atlantic alliance. Demonstrators condemning American violence surge into streets in cities around the world. The Soviets canceled a pre-summit parley and are predictably exploiting this turn of events to posture as the Third World's friend and the foe of aggressive American power. And in Washington, senior Reagan administration officials announce that from now on the United States will not confine its military strikes against terrorists to retaliation, but intends to mount pre-emptive strikes at times and places of its choosing.

This flood of events signals the arrival of a new and dangerous era for this nation and the world. It rings with frightening echoes from the past—World War I, World War II, Vietnam—but it holds no exact parallels to any of them. The lessons from each of those watersheds of history must guide thinking and conduct in this new era, but the time has come to move beyond paralysis inspired by fear of the past.

The Reagan administration's anti-terrorism policies in this respect are consummately clear and coherent—so far. They were articulated in depth by Secretary of State George P. Shultz in a speech on terrorism given Oct. 25, 1984. Intra-administration debate retarded translation of Mr. Shultz's ideas into action until last Monday, when the U.S. air strike announced that Mr. Shultz's views prevailed. His concepts now guide the conduct of the United States.

The essential concept is recognition of terrorism "as a modern tool of warfare." From that premise all else flows. The terrorist bombing of the West Berlin discotheque constituted an act of war, as did the U.S. air strike at Libya in reprisal. Since then the anti-terrorism policy being enunciated daily in Washington constitutes the evolution of a policy of war.

This war is unlike any in U.S. history—a low-level, sporadic war of surprise attacks that recognize no borders. Last year 25 Americans were killed in 28 terrorist assaults. Since 1973 terrorists have launched 157 "lethal attacks" killing 417 Americans—including the 241 soldiers killed in 1983 by a car bomb in Beirut, 27 other military personnel, 28 diplomats, five federal employees and 116 private U.S. citizens, according to the State Department.

Like all wars, this one is ugly and explosive, but the United States has no choice but to fight it because Americans are under attack. In this war terrorists are the aggressors, not the United States.

Recognition that America is now engaged in a strange new kind of war should clear heads everywhere to enhance the careful thinking that must be done to ensure that the inherent dangers are minimized and contained. Considered responses to these disquieting facts are required from throughout the executive branch's national-security team, from Capitol Hill and from all allied governments.

The first and most obvious danger to be avoided is indiscriminate lashing out at political foes whom some might find tempting to define as terrorists—such as, say, Nicaragua's Sandinistas. It should be emphasized that—so far—the administration has not employed force blindly or zealously under the rubric of counterterrorism, but rather chose force only as a least resort, and then only after steady deliberation.

In explaining his doctrine in 1984 Secretary Shultz clearly recognized the limits within which active counterterrorism must be waged. "We will need the flexibility to respond to terrorist attacks in a variety of ways, at times and places of our own choosing," he said. "Clearly we will not respond in the same manner to every terrorist act. Indeed, we will want to avoid engaging in a policy of automatic retaliation which might create a cycle of violence beyond our control."

No matter how careful, deliberate and restrained the executive branch intends to be, however, the Constitution reserves to Congress the power to declare war. The reality of this low, level, terrorist war has existed for years against Americans. Now that reality necessarily involves Americans hitting back.

It is therefore time for Congress to assert itself as an active partner with the executive branch. The Vietnam-era War Powers Act needs refinement, in practice if not actual amendment, to ensure that Congress enjoys full authority to consult, advise and if need be restrain the executive branch.

No less an effort is required from America's allies. Terrorism is the handmaiden of Soviet totalitarianism. Both threaten all Western democracies. Division among the allies over how to wage counterterrorism weakens the alliance overall. Had the European allies joined America in enforcing economic sanctions against Libya, force might have been avoided. Instead all but Britain's Margaret Thatcher preferred appeasing Col. Khadafy to isolating him.

If terrorism is to be contained and defeated, it will require collective resolve and carefully calibrated action by the united powers of the West. Division and confusion play into the hands of many enemies and enhance the danger that events might spiral out of control.

## ACCOMPLISHMENTS OF A NATIVE WASHINGTONIAN

### HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. FAUNTROY. Mr. Speaker, I am pleased to recognize the accomplishments of a native Washingtonian and one of my constituents, Ms. Desiree Keating.

The writer Wilcox on one occasion stated, "It is the set of the sails and not the gales that tell us the way to go." Ms. Keating has set her sites on the Miss U.S.A. title for 1986, and it is her grim determination to succeed that makes her a formidable candidate for that plateau.

She was Miss District of Columbia in 1984's D.C. competition for the Miss American pageant, the first Miss D.C. in the Miss America competition in 21 years. Now, selected on March 16 from among 14 contestants, she is Miss District of Columbia in the 1986 competition for the title of Miss U.S.A. to be decided May 20 in Miami, FL. Within the history of either pageant, no one contender has ever represented her State in both pageants.

This two-time winner is a 24-year-old undergraduate student in dance therapy at George Washington University. She has been involved in pageants since the age of 12, when she entered the Miss Takoma Park pageant at her school. She won that pageant and then went on to crown her younger sister, Tanya, the following year. Her talent in the 1984 Miss D.C. competition was a crowd-pleasing dance with a ladder to the beat of a revamped spiritual, "Goin' Up Yonder," depicting a Christian's ascedance into heaven.

Over the years, Ms. Keating's contributions in the Washington Metropolitan area in the

fields of entertainment, the arts, charitable causes benefiting the "handi-equipped," and development of youth programs have been numerable.

During her reign, she has been involved in numerous Washington area activities, including the Easter Seal Society dance-a-thon and telethon, and the March of Dimes walk-a-thon. She is a recipient of the Congressional Black Caucus Avon Youth-Leadership Roundtable Award, as well as D.C. Mayor Marion Barry's Youth Leadership Outstanding Achievement and Contributions Award for 1985. One of her most memorable accomplishments of that year was receiving the Council of the District of Columbia's resolution citing April 30, 1984, as the Desiree Keating Recognition Resolution of 1984, in honor of her representation of the District of Columbia in the Miss America Pageant.

In the Miss America pageant Ms. Keating learned to "take the loss with the grace as you would take the gain." In the Miss U.S.A. pageant, all of us in the District of Columbia are hoping for a different result.

## MRS. ESTHER MALLACH HONORED FOR 25 YEARS WITH MENTAL HEALTH ASSOCIATION

### HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. FISH. Mr. Speaker, I rise today in recognition of the dedication shown by Mrs. Esther Mallach, who for the last 25 years has served as the executive director of the Mental Health Association of Westchester, NY. The MHA is a vital force for the promotion of good mental health in the area, and its success can be directly attributed to the leadership of Mrs. Mallach.

Mrs. Mallach joined the MHA as a field consultant in 1960, then was appointed executive director in 1962. Under her astute and insightful administration, the association evolved from a little known organization into one of the Nation's most respected contributing mental health resource centers.

In the last 25 years, under Mrs. Mallach's direction, new programs and services, such as a day program, community residences, and social clubs for mentally ill patients, the Suicide Prevention Service, the Abused Spouse Assistance Service, and the Child Abuse Prevention Program were introduced.

Gov. Mario Cuomo appointed Mrs. Mallach a member of the Harlem Valley Psychiatric Center Board of Visitors in 1979. Currently she is president of the board. Her other affiliations include membership on the Westchester Community Mental Health Services Board, the Department of Social Services Advisory Board, the Westchester Health Planning Council, and the executive committee of the Mental Health Association in New York State. She also serves as chairman of the advisory board of the Westchester Community College Human Resources Department.

Mrs. Esther Mallach is a leader in every sense of the word, whose community service has improved innumerable lives. Her work is an inspiration to us all. I join my colleagues and constituents in thanking her for the years of hard work she has given us.

## MEDIA TO BLAME FOR RISE OF SANDINISTAS

### HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. RITTER. Mr. Speaker, continuing in my effort to bring pertinent information on the issue of Contra funding to the attention of my colleagues, I trust they will find this March 29, 1986, article from Human Events of interest.

MEDIA TO BLAME FOR RISE OF SANDINISTAS

Who is responsible for the rise of the Sandinistas? The Sandinista regime in Nicaragua, which has so convulsed this hemisphere, can be blamed to a large extent on the media, which portrayed the Sandinista movement as heroic "freedom fighters" battling the corrupt Somoza dictatorship.

But conservatives and anti-Communists knew better. And 20 months before the Sandinistas conquered Managua, this publication (see story below) warned about the danger of this Cuban-assisted organization and chastized the press for not revealing more about it.

If the major media had done their job more thoroughly, the Sandinistas, in fact, may never have seized control of Nicaragua, or, at the very least, would have lost popular support within this country at a much earlier stage.

Information about who the Sandinistas really were, however, was readily available, as the following article from our Nov. 12, 1977, issue suggests:

"The tiny country of Nicaragua, with only 2.3 million people, has been getting an astonishing amount of media attention in the last few months, especially from the Washington Post, Jack Anderson and the New York Times. The major effort of the media has been to injure Anastasio Somoza, Nicaragua's very pro-American president.

"While the left is assailing Nicaragua for supposed violations of human rights, the truth is that this Central American nation gives far more freedom to its citizens than other Latin countries championed by the left, such as Panama and Cuba, give to theirs. Aside from permitting opposition parties, freedom of religion, freedom to own property and the like, Nicaragua also allows a fair amount of freedom of the press. The nation's largest newspaper is controlled by Somoza's leading foe, Dr. Pedro Joachim Chamorro.

"Whether the media know it or not, their assaults against Nicaragua—which many believe have been stimulated by Marxist and revolutionary elements in this country—are giving moral support to a group of Nicaraguan guerrilla terrorists known as the Sandinist Liberation Front of Nicaragua (FSLN). It was the terrorist actions of this group which compelled Somoza to impose on his country a temporary state of siege, which he only recently lifted.

"While this group is frequently painted in heroic terms, the truth is that the FSLN is Marxist-Leninist in orientation and has had its life prolonged by the totalitarian regime of Fidel Castro. The recent FSLN chief, Pedro Arauz, who was killed by Nicaraguan forces in late October, told of his admiration for the Cuban revolution in an interview with Honduran newsmen.

"Asked about the relationship between Havana and the FSLN's attitude toward the Cuban people is one of respect, admiration and solidarity with the glorious Cuban revolution, which is an example and stimulus for the liberation struggle of all people of the world and mainly for Latin America. The unconquerable Cuban people struggle to the death against the general and universal enemy of all peoples of the world: U.S. imperialism.'

"On Nov. 4, 1969, according to the Nicaraguan government, Arauz, using the name Rene Lugo Valencia, participated in the hijacking of a Nicaraguan airplane. Along with Juan Jose Quezada Maldonado, he forced the plane to fly to Cuba where they both received military training. On May 4, 1970 Arauz left Cuba for Europe, then headed for Arab countries where he received further military training in the Al-Fatah guerrilla camps.

"In a letter to Rep. Ed Koch (D.-N.Y.) earlier this year, the State Department elaborated on the FSLN's Cuban connection. The FSLN, noted the department, 'grew out of a number of scattered revolutionary groups that existed in Nicaragua in the late 1950s whose common intention was to overthrow the Somoza government. Their unification into the FSLN appears to have been precipitated by twin catalysts of the Cuban revolution and the violent antipathy that early sprang up between the Castro and Somoza regimes. . . .

" 'The Nicaraguan Liberation Front (FLN) was founded in Havana in September 1962 by a group of leftist extremists who had been active for some years in revolutionary causes in Nicaragua. Carlos Fonseca Amador, perhaps their most significant leader, was a proponent of Marxist-Leninist theory who had closely followed the Castro revolution in Cuba and whose attachment to the Cuba revolutionary model strongly influenced the FLN's early strategy and tactics. . . .

" 'By 1964, the FLN had added the name of Sandino to its title, in honor of Gen. Augusto Sandino, the Nicaraguan guerrilla leader who had battled U.S. Marines in Nicaragua from 1928 until shortly before his death. . . .

" 'The FSLN's support appears to have come largely, but not solely, from within Nicaragua, and the FSLN itself has attempted to forge links with anti-Somoza elements of various political persuasions. . . .

" 'External support has also come from Nicaraguans living abroad, but probably the most important source of external support has been Cuba.'

" 'Cuba support appears to have been greatest during the early 1960s when the Castro regime provided the FSLN with: guerrilla warfare training in Cuba; money for the purchase of arms, munitions, food and clothing; and payment for propaganda material.

" 'By the early 1970s, partly as a result of changes in Cuban policy and partly because the FSLN had not been able to consolidate its position, Cuban support diminished. Nevertheless, the Cubans continued to provide a safehaven for FSLN members, some training for recruits and contacts for the FSLN with extremist groups in other parts of Latin America and elsewhere. Perhaps not least among Cuba's contributions was the psychological boost to FSLN morale.

" 'That some revolutionary guerrilla organizations or organizations akin to the FSLN

would have existed in Nicaragua during this period, even without Cuban support, seems certain . . . . Whether they would have remained as active, long-lived or determined as the FSLN over its 15-year history without Cuba's material and moral support is doubtful.'

"Whatever Somoza's faults, then, he is to be greatly preferred to the terrorist crowd that forms the FSLN. But the media, apparently, are going to continue to give aid and comfort to Somoza's ferocious enemies."

## COLOMBIAN CONGRESSIONAL ELECTIONS

### HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. GARCIA. Mr. Speaker, Mike Apel and H. Lawrence Boudon, research associates at the Council of Hemispheric Affairs [COHA], recently sent to my office a very interesting analysis of the Colombian congressional elections.

I am submitting their article for the RECORD, and I urge my colleagues to take a moment to read it.

The article follows:

LIBERALS TRIUMPH IN COLOMBIA VOTE

(By Mike Apel and H. Lawrence Boudon)

With the extension of its truce with the Colombian Revolutionary Armed Forces (FARC) on March 1, the Colombian government was able peacefully to conclude congressional elections on March 9 in which Virgilio Barco's Liberal Party scored a substantial victory, winning 49 percent of the vote. Despite the low turnout—only 6.5 million voters out of an electorate of some 20 million showed up at the polls—the Liberal victory put Barco in the driver seat for the final leg to Presidential elections on May 25.

Barco—whose presidential rival, Conservative Alvaro Gomez, had previously led in public opinion polls—was clearly elated by the election results. "I would like to express my profound satisfaction," boomed the 66 year old veteran politician in front of cheering supporters in Bogota the day after the elections, "for the Liberal triumph and for the consolidation of democracy." President Betancur, an admirable leader whose tenure of office expires in August, had urged Colombians to "turn out en masse" in an appeal to reject the violence which has recently plagued the country.

PRESIDENTIAL PROSPECTS

Despite their poor showing, the Conservatives still hope to rally enough support to win the May presidential elections. Observers were quick to point out that the Liberals won the Congressional elections in 1982, yet Belisario Betancur, a Conservative, emerged victorious from the subsequent presidential election. While Gomez does not possess Betancur's populist appeal, his hard line towards the leftist guerrillas has gained considerable support in a country torn by 40 years of violence.

Some view the elections as a referendum on Betancur's performance. The President's faltering peace initiative with the guerrillas and his controversial handling of the Palace of Justice siege last November have soured the once immensely positive image that Betancur enjoyed. A vote for the Liberals may have been as much against the President as it was in favor of Barco's party.

The most immediate impact of the voting was that presidential hopeful Luis Carlos Galan, whose leftist New Liberal Party lost popular support (in 1982 it had received 750,000 votes) was forced to withdraw from the upcoming presidential race and has vowed to remain neutral. Galan's political failure signals the end, for now, of a viable third party to challenge the traditional Liberal-Conservative hegemony, created through the National Front in 1958. The departure of the New Liberals may also strengthen Barco's chances of winning in May. In 1982, the Liberal split was thought to have aided Betancur's Conservative victory.

UP LOSES

A somewhat surprising result was the lack of support for the Patriotic Union (UP) which garnered only 1 percent of the votes. The new party, an alliance of the established Communist Party (CPC) and the FARC guerrillas created in 1985, had pinned its political hopes on a good showing by having extended its truce with the Colombian Government just seven days earlier. In the accord, the FARC pledged to integrate its members into the political process and has already demobilized 2,500 fighters. In 1982 the CPC, running alone, received 120,000 votes.

In a more general sense, the election results demonstrated that, despite Betancur's promises to open the political system, the Liberal-Conservative juggernaut continues to dominate. The fact that Betancur passed a law in January, allowing direct election of municipal mayors for the first time in Colombian history, does not take into account the frustration that third parties have experienced over the years, particularly since the end of the National Front in 1974. The presidential elections of May 25 will again be contested by only two viable candidates.

INSURGENT VOTE

The elections were not marred by leftist violence, however, as the National Guerrilla Coordinating Board (CNG)—a loose confederation of the M-19, the Popular Liberation Army (EPL), the Army of National Liberation (ELN), and the Quintin Lame group—was thwarted in its pre-election attempts to disrupt the voting. Quintin Lame, in particular, had tried to seize identification documents so that people could not vote. On election day, only one ambush was reported in the department of Cordoba, where six policemen were killed while escorting election officials. In addition, an electric pylon was downed in the Department of Valle.

The April 19 Movement (M-19), nevertheless, was able to interrupt election newscasts five times from their clandestine radio transmitter. Each time the message stated that, "Colombia knows very well that the election is not going to resolve the country's problems." Prior to the vote, the M-19 had promised government Minister Jaime Castro that it would not interfere with the voting. On March 13, M-19 leader Alvaro Fayad Delgado was killed in a shootout in Bogota. He was the third chief of that highly active guerrilla organization which dates back to 1970.

CAUCA CAMPAIGN

The guerrillas of the CNG have been faced with increasing Army offensive since the Palace of Justice battle. In a sweep operation in the Department of Cauca on March 5-6, security forces reportedly killed forty guerrillas and uncovered plans to take over six towns in Cauca and Valle, including a community 20 kilometers outside of Cali, the country's third largest city.

On March 6, "men in military uniforms" killed six peasants in the Department of Santander, forcing other peasants to abandon their land and seek refuge in neighboring Barracabermeja. Analysts fear that if Alvaro Gomez wins the May elections, the military may be given free rein in the countryside, such as happened under the rule of the Conservative candidate's father Laureano Gomez, in 1950.

## THE 1985 CONTRIBUTIONS TO THE UNITED NATIONS FUND FOR DRUG ABUSE CONTROL

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. GILMAN. Mr. Speaker, I regret to report to you once again that the global epidemic of narcotics trafficking and drug abuse continues unabated. There is virtually no region of the world that has managed to escape the effects of this epidemic. Here, in the United States, recent massive seizures of cocaine give credence to the view of some who describe cocaine as virtually "falling out of the sky." The continuing influx of heroin, marijuana, and other dangerous drugs simply serve to make what is a very bad situation even worse. It is clear that all nations must join together in an all-out assault on this plague before the very fabric of society is destroyed, and with it our only hope for the future—our youth. The 1985 report of the U.N. International Narcotics Control Board states the problem quite clearly:

Drug abuse causes such great damage to individuals and their families on the one hand, and to the social fabric of countries on the other, that sustained and determined counteraction must be regarded as an absolute necessity. Illicit drug use and trafficking not only detract from economic development in many countries, but, as previously stressed, also contribute to the spread of crime, violence, and corruption. Addiction strikes at random, but when it ensnares young people, it affects countries' futures.

The world community must join together and chart a cooperative course of action to end this worldwide epidemic. We must do so by forging a new spirit of bilateral and mutilateral cooperation that will address reductions in both the supply of and demand for illicit narcotics.

The U.N. Fund for Drug Abuse Control [UNFDAC], established in 1971, and funded by voluntary contributions of nations of the international community, provides a framwork to financially support drug control programs around the world. Under the capable and dedicated leadership of its executive director, Dr. Guiseppe di Gennaro, the Fund has worked to increase its resources and subsequent support for drug control programs, including measures to fight illicit drug production and trafficking in many developing countries.

I recently received a communication from Dr. di Gennaro in which he reports on the 1985 contributions to UNFDAC, and I am happy to say that his response is most prom-

ising. While in 1984, only 39 of the 159 member nations of the United Nations contributed a mere $12 million to the Fund, 1985 contributions more than doubled to $24.4 million, and participation increased to 53 nations, or one-third of the U.N. membership. In addition, it is important to note that a first time contribution of $20,000 was received from the People's Republic of China; and significantly increased support was received from Finland, $66,049; Malaysia, $17,000; Portugal, $10,000; Senegal, $5,000; Spain, $61,728; Switzerland, $93,458. Prior strong supporters also increased their contributions significantly: Italy, $10,280,899; Norway, $2,468,417; the United Kingdom, $5,289,876; and the Federal Republic of Germany, $1,615,384.

While this news is most encouraging, still it must be noted that only 10 nations have accounted for 96.3 percent of UNFDAC contributions since 1971, and the United States and Italy alone have accounted for more than 65 percent of those contributions.

This encouraging news comes at a most important and crucial time. Quite simply the problems of drug trafficking and drug abuse are not abetting, they are intensifying. Our only hope in the fight against drug production, trafficking, and abuse is for the nations of the international community to join together and intensify their efforts by pooling their resources and personnel, with the goal of implementing a global strategy against drug trafficking and abuse. I believe that we are beginning to see signs that this is a goal which can and will be realized. I urge your strong support in this effort.

Mr. Speaker, in an effort to share this information with my colleagues, I am inserting at this point in the RECORD the following two documents: A status of the contributions pledged or received by the U.N. Drug Fund as of December 31, 1985; and a list of the 10 major donor countries to the Fund as of December 31, 1985.

SEC. V.—U.N. FUND FOR DRUG ABUSE CONTROL—STATUS OF CASH CONTRIBUTIONS PLEDGED OR RECEIVED AS OF DEC. 31, 1985

| | Total contributions pledged or received during | | Total |
|---|---|---|---|
| | 1971–84 | 1985 | |
| 1. Algeria | $7,995 | | $7,995 |
| 2. Argentina | 98,000 | $12,000 | 110,000 |
| 3. Australia | 2,309,781 | 139,860 | 2,449,641 |
| 4. Austria | 582,106 | 80,645 | 662,751 |
| 5. Bahamas | 6,000 | 1,000 | 7,000 |
| 6. Barbados | 2,000 | 500 | 2,500 |
| 7. Belgium | 181,960 | 35,420 | 217,380 |
| 8. Benin | 1,667 | | 1,667 |
| 9. Bolivia | 6,000 | | 6,000 |
| 10. Brazil | 48,000 | 5,000 | 53,000 |
| 11. Canada | 2,356,871 | 243,066 | 2,599,937 |
| 12. Chile | 32,500 | 4,000 | 36,500 |
| 13. China, People's Republic of | | 20,000 | 20,000 |
| 14. Cyprus | 6,882 | 1,000 | 7,882 |
| 15. Denmark | 434,095 | 15,789 | 449,884 |
| 16. Ecuador | 2,500 | 2,500 | 5,000 |
| 17. Egypt | 4,993 | 2,000 | 6,993 |
| 18. Finland | 156,075 | 66,049 | 222,124 |
| 19. France | 1,545,777 | 187,500 | 1,733,277 |
| 20. Germany, Federal Republic of | 10,204,641 | 1,615,384 | 11,820,025 |
| 21. Greece | 25,799 | 7,000 | 32,799 |
| 22. Guyana | 487 | | 487 |
| 23. Holy See | 1,000 | | 1,000 |
| 24. Hong Kong | 185,698 | 12,858 | 198,556 |
| 25. Iceland | 25,900 | 2,000 | 27,900 |
| 26. India | 52,000 | 15,000 | 67,000 |
| 27. Indonesia | 10,000 | 2,000 | 12,000 |
| 28. Iran | 43,715 | 2,000 | 45,715 |
| 29. Iraq | 20,032 | | 20,032 |
| 30. Ireland | 30,000 | | 30,000 |
| 31. Israel | 9,264 | 5,000 | 14,264 |
| 32. Italy | 42,073,216 | 10,280,899 | 52,354,115 |
| 33. Ivory Coast | 1,036 | | 1,036 |
| 34. Jamaica | 7,740 | | 7,740 |
| 35. Japan | 3,111,685 | 400,000 | 3,511,685 |
| 36. Kenya | 28,116 | 3,315 | 31,431 |
| 37. Kuwait | 26,000 | | 26,000 |
| 38. Libyan Arab Republic | 16,460 | | 16,460 |
| 39. Liechtenstein | 6,000 | | 6,000 |
| 40. Luxembourg | 1,000 | | 1,000 |
| 41. Madagascar | 8,400 | 2,000 | 10,400 |
| 42. Malawi | 1,014 | | 1,014 |
| 43. Malaysia | 30,000 | 17,000 | 47,000 |
| 44. Malta | 2,795 | 193 | 2,988 |
| 45. Mauritius | 3,338 | | 3,338 |
| 46. Mexico | 10,659 | 292 | 10,951 |
| 47. Morocco | 29,275 | | 29,275 |
| 48. New Zealand | 334,875 | 20,680 | 355,555 |
| 49. Nigeria | 14,778 | | 14,778 |
| 50. Norway | 8,580,491 | 2,468,417 | 11,048,908 |
| 51. Oman | 997 | | 997 |
| 52. Pakistan | 6,716 | 620 | 7,336 |
| 53. Panama | 4,940 | 2,470 | 7,410 |
| 54. Philippines | 18,180 | 2,000 | 20,180 |
| 55. Portugal | 19,000 | 10,000 | 29,000 |
| 56. Qatar | 62,000 | | 62,000 |
| 57. Republic of Korea | 13,500 | 4,000 | 17,500 |
| 58. Rwanda | 1,066 | | 1,066 |
| 59. San Marino | 1,500 | | 1,500 |
| 60. Saudi Arabia | 1,957,000 | 50,000 | 2,007,000 |
| 61. Senegal | 6,204 | 5,000 | 11,204 |
| 62. Singapore | 3,000 | | 3,000 |
| 63. South Africa | 52,474 | 4,758 | 57,232 |
| 64. Spain | 55,386 | 61,728 | 117,114 |
| 65. Sri Lanka | 500 | | 500 |
| 66. Sudan | 1,000 | | 1,000 |
| 67. Suriname | 2,000 | 2,825 | 4,825 |
| 68. Sweden | 4,728,388 | 442,600 | 5,170,988 |
| 69. Switzerland | 385,117 | 93,458 | 478,575 |
| 70. Thailand | 9,000 | 5,000 | 14,000 |
| 71. Togo | 652 | | 652 |
| 72. Trinidad and Tobago | 1,000 | | 1,000 |
| 73. Tunisia | 17,342 | | 17,342 |
| 74. Turkey | 55,274 | 17,500 | 72,774 |
| 75. United Arab Emirates | 12,000 | | 12,000 |
| 76. United Kingdom | 2,407,371 | 5,289,876 | 7,697,247 |
| 77. United Republic of Cameroon | 8,760 | 2,500 | 11,260 |
| 78. United States of America | 42,770,000 | 2,732,000 | 45,502,000 |
| 79. Uruguay | 1,000 | | 1,000 |
| 80. Venezuela | 18,000 | 8,879 | 26,879 |
| 81. Vietnam | 1,000 | | 1,000 |
| 82. Yugoslavia | 75,288 | 12,000 | 87,288 |
| 83. Zaire | 500 | 500 | 1,000 |
| Total [1] | 125,374,771 | 24,418,081 | 49,792,852 |

[1] Figures include total unpaid pledges of US $65,230,180 of which US $15,868,892 represent unpaid pledges due and US $49,361,288 future-year pledges or future-year portions of pledges.

UNITED NATIONS FUND FOR DRUG ABUSE CONTROL

[10 major-donor countries as at December 31, 1985; amounts in U.S. dollars]

| Country | 1971–84 | Contributions 1985 | Total | Due pledges unpaid and future-year pledges | Percent of the total contribution in relation to the grand total |
|---|---|---|---|---|---|
| 1. Italy | $42,073,216 | $10,280,899 | $52,354,115 | $42,240,420 | 35.0 |
| 2. USA | 42,770,000 | 2,732,000 | 45,502,000 | 10,832,000 | 30.4 |
| 3. Germany, Federal Republic | 10,204,641 | 1,615,384 | 11,820,025 | 1,692,490 | 7.9 |
| 4. Norway | 8,580,491 | 2,468,417 | 11,048,908 | 1,660,927 | 7.4 |
| 5. United Kingdom | 2,407,371 | 5,289,876 | 7,697,247 | 5,934,719 | 5.1 |
| 6. Sweden | 4,728,388 | 442,600 | 5,170,988 | 1,045,752 | 3.5 |
| 7. Japan | 3,111,685 | 400,000 | 3,511,685 | | 2.4 |
| 8. Canada | 2,356,871 | 243,066 | 2,599,937 | | 1.7 |
| 9. Australia | 2,309,781 | 139,860 | 2,449,641 | 137,931 | 1.6 |
| 10. Saudi Arabia | 1,957,000 | 50,000 | 2,007,000 | 1,010,000 | 1.3 |
| Totals | 120,499,444 | 23,662,102 | 144,161,546 | 64,554,239 | 96.3 |
| Total other countries | | | 5,631,306 | | 3.7 |
| Grand total | | | 149,792,852 | | 100.0 |

## THE TORT LAW CRISIS

### HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. RITTER. Mr. Speaker, continuing in my effort to bring pertinent information on the tort law crisis to the attention of my colleagues, I trust they will find this April 10, 1986, editorial by James J. Kilpatrick taken from the Allentown Morning Call of interest.

The editorial follows:

"CRISIS" ACCURATE LABEL FOR INSURANCE MESS

(By James J. Kilpatrick)

WASHINGTON.—"Crisis" is one of the garlic words of commentary: It has to be used sparingly. Late in February a presidential task force filed its report on "The Crisis in Insurance Availability and Affordability." The word was properly employed.

It is indeed a crisis. If significant steps are not taken soon, the fabric of American public and private life could be gravely damaged. For the moment, let us put questions of blame to one side. A part of the blame plainly lies with the insurance industry: When interest rates were high, it greedily wrote bad policies at unjustifiably low rates. A part may lie with lawyers who are skilled at playing upon the emotions of jurors. A part may lie with the medical profession for not policing its own incompetent practitioners. There is plenty of blame to go around.

The realities cannot wait upon exercises in finger pointing. The task force spelled out the facts.

Hundreds of American industries either use or manufacture chemical products capable of causing both accidental and gradual pollution. Such companies are highly vulnerable to suits for damages. Last year two major companies dropped out of the market in environmentally liability insurance. Only two companies still offer this coverage. Rates are exorbitant.

Many corporations are having trouble retaining experienced directors. Premiums on insurance for officers and directors last year rose from 50 percent to 500 percent.

Bus and trucking companies, said the commission, "are having severe difficulties obtaining the insurance coverage required by federal law."

Nurses, midwives, obstetricians, gynecologists, pediatricians, dentists, and many other medical specialists are finding it almost impossible to obtain malpractice insurance at any price. St. Paul's Insurance Co., the largest medical malpractice insurer, has ceased writing new policies.

Municipalities, both large and small, are in deep trouble. Some cities are facing premium increases up to 1,000 percent. Rather than renew, many cities have decided to "go bare"—that is, to take a chance that they can insure themselves against awards of heavy damages. "A number of city and county officials have resigned, fearing personal exposure to lawsuits stemming from their official duties."

Premiums for transportation companies in the past year has soared. In Los Angeles, the transit district's premium leaped from $67,000 to $1.7 million, while coverage was reduced.

So it goes across a wide spectrum of business, professional and public activity. Grocers, architects, engineers, newspapers, day-care centers, toy manufacturers, auto repair shops, makers of medical equipment—in all these areas, costs of liability insurance have climbed out of sight. In 1972, builders of private aircraft had an expense of $211 per plane for liability coverage. Last year the cost per plane was $70,000.

The insurance industry has much to answer for. Between 1977 and 1984, when interest rates were high, many companies wrote policies at less than cost. They wanted the premium income for investment. Then interest rates began to fall and average jury awards begin to climb. Last year the property-casualty insurers reported an estimated net underwriting loss of $25.2 billion. The figure has to be accepted with some degree of skepticism—the industry as a whole is profitable, and property-casualty lines account for only one-third of the overall insurance market.

Nevertheless, in areas of high vulnerability, such as medical malpractice, the situation has become critical. The average medical malpractice jury verdict increased from $220,000 in 1975 to $1 million in 1985. The average award in cases of product liability soared in this same period from $394,000 to $1.8 million.

The presidential commission made eight recommendations for relieving the crisis. The president has endorsed these proposals, and hearings in the House have begun. I will be reviewing these recommendations in a subsequent column. Meanwhile, reluctant as I am to use that word "crisis," its seems plain to me that in these important areas a true crisis has to be faced.

## GARY AND MARTA CARMICHAEL, 1986 OUTSTANDING YOUNG DAIRY COUPLE

### HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. SCHUETTE. Mr. Speaker, I would like to take this opportunity to congratulate Gary and Marta Carmichael of Evart, MI, for being chosen Michigan Milk Producers Association's 1986 Outstanding Young Dairy Couple. Marta and Gary have distinguished themselves through their excellent farming operation, involvement in numerous community and farm-related activities, and their demonstrated leadership abilities.

I congratulate Marta and Gary for receiving this award, and I wish them the best in their continued goal of agricultural excellence.

The following article appeared in the March 1986 volume of the Michigan Milk Messenger:

GARY AND MARTA TAKE OYDC TOP HONOR

Gary and Marta Carmichael of Evart and MMPA's 1986 Outstanding Young Dairy Couple. They were picked in mid-February from among finalist-couples narrowed from a field of contestants representing MMPA's 11 districts.

Carmichaels officially received the award at the MMPA annual delegate meeting in East Lansing in mid-March. They will represent MMPA and the state at various dairy industry functions during the year.

They farm about 1,400 acres and milk some 200 cows in partnership with Gary's parents, Dale and Marge Carmichael, and Gary's brother and wife, Doug and Sandy Carmichael.

Gary and Marta have four children: Chris, 12; Jeff, 10; Katie, 8; and Kevin, 6.

The OYDC represents MMPA District 5 and they belong to the MMPA Evart Local. Three-times-a-day milking is done in a 15-stall trigon parlor; milk's stored in a 3,000-gallon tank. Cows are fitted with electronic milk-meters that feed data to a production summary computer.

Gary and Marta have dairy farmed since 1975. They began a program of irrigating their land three years later. Right now, they irrigate with 10 million gallons of manure a year, pumping it as far away from the barns as 2½ miles.

Crops include 300 acres of high-moisture corn, 300 acres of high-moisture barley, and 600 acres of alfalfa. The rest is pasture and woodlot. They feed on a total mixed ration.

The couple is active in Farm Bureau and church. In 1978, at age 25, Gary was elected Osceola County commissioner, the youngest person to be elected to the panel.

"We have faced two challenges of extreme magnitude during our years as a dairy farmer," the couple said. "The first was the expansion and organization of our farm from 140 to 200 cows. This management challenge is still in progress and goals are being reached. The second challenge is of even greater importance—the oversupply of milk products nationally and internationally, and the continuing erosion of prices paid to the dairy farmer. It is an area of concern that spills beyond the boundaries of just our farm, but also into the times and lives of other grain and dairy farms, out into the public markets of food, and down the halls of Congress. The answer is neither simple nor magical. The repercussions of improperly meeting this challenge could be the demise, not just of a few farms here and there, but of an industry, a way of life and perhaps the economy of a nation.

"As was stated so well many years ago, 'As agriculture goes, so goes a nation.' This is a challenge that every member of every agriculture organization must share. There is no time left to set the responsibility of action on a back shelf; we must address it now."

Contestants were judged on their farming operations, community and farm-related activities and demonstrated leadership abilities.

## MORRISTOWN (NJ) DAILY RECORD SAYS "NYET" TO NUCLEAR TEST BANS

### HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. COURTER. Mr. Speaker, as the following editorial from the Morristown, NJ, Daily Record states so eloquently, the Soviet nuclear testing moratorium proposal is simply the latest thrust in the Soviet arms control public relations offensive. The Soviet Union exploits our open society to advance seductive but patently inequitable arms control proposals, forcing the Reagan administration to waste valuable effort refuting their proposals. The memory of the last nuclear testing moratorium, and the 50 nuclear tests that the Soviet conducted in the fall of 1961, argue strongly against falling into the trap again. I commend the following editorial to your attention.

NYET TO TEST BANS

It is not a little amusing to watch the Soviet regime adopt tactics they once criticized in Americans. When President Carter, only four months into office, dispatched his secretary of state to Moscow to offer well-publicized nuclear arms reductions proposals, the Kremlin responded with a curt "nyet." Professional critics chided Carter for his naivete in conducting public diplomacy with the Russians over something as sensitive and complicated as arms control.

Now, the Soviets whose past public relations offensives have failed to dissuade the Europeans from accepting American missiles on their territory, are trumpeting a ban on underground nuclear testing as the surest path toward arms control.

Two weeks ago, Soviet premier Gorbachev offered Reagan a "last chance" to join the seven-month Soviet unilateral testing moratorium.

And he wants to have a summit in Europe devoted exclusively to beginning negotiations for a full treaty ban.

The Soviets are taking advantage of America's open society to wage a propaganda assault upon the Reagan administration to prove the latter's disinclination toward peace. At the cost of some domestic and international support, the administration is resisting this public pressure, and for good reason.

Already in place since 1963 is a ban on explosions in the atmosphere, in space and underwater. For reasons of stability, administrations from Kennedy's to Carter's have insisted on the necessity to test some new weapons like the Midgetman that can remove existing arsenals from a hair trigger.

President Reagan has made reduction of existing weapons the centerpiece of his negotiating stance, but he has wisely refused to adopt a ban on testing that would head off new weapons.

It is the United States' technological and economic superiority that has roused the Soviets to press for a total test ban. Specifically, the Kremlin hopes a ban would put the brakes on the Strategic Defense Initiative. Thus far, they have failed to pry loose the administration's commitment to SDI, which represents an opportunity for the world to escape the treadmill of mutually assured destruction.

Another reason to treat the Kremlin's test-ban proposal with skepticism is the issue of verification, where Moscow does not have a strong track record.

But putting problems with Moscow's intentions aside, is a total test ban a prudent course to follow? When one considers that testing helps assure that stockpiled weapons—which are in abundant supply on both sides—work and will not accidentally detonate, one sees the foolishness and danger of agreeing to such a ban. Big arsenals on hair triggers are the threats to stability. Reagan has logic, if not public opinion, on his side when he argues that testing is the best safeguard against the hair trigger, and reductions the best solution to the big arsenals.

The Kremlin public relations apparatus will no doubt inveigh against the United States for not going along with its latest proposal. But we think the Reagan administration is right to stick with the two-tiered approach—arms reduction and strategic defense—that brought the Soviets back to Geneva in the first place.

## AIRPORT SECURITY CONCERNS HEIGHTENED WITH INCREASED TERRORISM

**HON. JAMES J. FLORIO**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. FLORIO. Mr. Speaker, for months, travelers around the world have been threatened by incomprehensible and inhumane terrorist incidents that have claimed a large number of lives. The increase in incidents has racked the tourism industry by producing large numbers of trip cancellations. Americans are becoming increasingly uncomfortable about traveling abroad and are choosing to spend their vacations closer to home.

As chairman of the House Subcommittee on Commerce, Transportation, and Tourism, I have explored the impact that terrorism has had on the domestic and international tourism industry through a hearing and through a visit to the Mediterranean and the Middle East this past January. I remain convinced that this increased fear of traveling can be countered by two approaches. As a long-term solution, the most important goal would be the need to address the root of terrorism and play a constructive role in resolving the political conflicts that have spawned tension and terror. In the short-term, however, it is necessary that we continue to take steps to guard travelers from future incidents and ensure that it will once again be safe to fulfill our needs to visit other countries and experience different cultures and widen our horizons.

Since the TWA hijacking last summer, airport security has been the focus of concern for travelers, airline workers, travel agents and tour operators, governments and security forces. A number of airports have taken a series of steps to increase security and protect passengers and airport employees. On my recent visit to the airports of Athens, Greece, Larnaca, Cyprus, and Tel Aviv, Israel, I was impressed by the commitment shown by these governments to cooperate with U.S. and international authorities in implementing and maintaining effective security standards.

The following New York Times article details the security steps taken by officials at Athens airport. I wanted to share this with my colleagues and to take this opportunity to urge other international airports to ensure that security will not be compromised and that traveling will once again be safe.

[From the New York Times, Apr. 15, 1986]

### ATHENS AIRPORT SPINS A HIGH-TECH SECURITY WEB

(By Ralph Blumenthal)

ATHENS, April 12.—From a cafe deck of Hellenikon Airport, Greece's top security official was pointing out some of the Government's latest anti-terrorism measures when a visitor noticed that the roof, a public area, freely overlooked a restricted zone. Could not some weapon or other contraband be dropped to a confederate below? the guest asked.

The official, Kostas D. Tsimas, considered the question for a moment, then with a snap of his fingers summoned a cluster of hovering assistants. "Put in a glass or a grate here," he ordered. "Anything could be dropped down to someone below."

Responding to acute concern over airport security and smarting from a large decline in the number of American tourists, Greece is zealously seeking to satisfy foreign critics while protesting that it is unjustly being held a scapegoat.

With some qualifications, it has succeeded. Western diplomats and airline officials agree that many security gaps have been plugged since the hijacking last year of a Trans World Airlines plane out of Athens and other terrorist attacks focused attention on the Athens airport.

#### "THE HUMAN FACTOR" IN SECURITY

On the other hand, the officials note that 90 percent of proper security is not technology but what they call "the human factor"—the alertness and motivation of the staff—and that lapses still occur. Armored police cars, for example, guard the airport entrance and tarmac, but the militiamen inside are sometimes lounging half asleep.

Officials who led a tour of the airport security system described some of the new security measures:

A recent increase in the total security force from 1,000 to 1,500, including members of an elite commando unit called T.A.E.

A better perimeter fence, new X-ray equipment and metal detectors, closed-circuit cameras and improved training and scheduling for operators.

Additional identity checks, both of passengers and airport workers.

Efforts to gain the cooperation of Arab nations such as Syria, Libya and Lebanon, whose airlines fly regularly through Athens.

#### A RENEWED SENSE OF URGENCY

The measures have taken on special urgency since a bomb exploded on a T.W.A. jet over Greece on April 2, killing four Americans.

Security in Athens was in no way responsible for the blast; the plane had not yet landed there. But Greek investigators, cooperating with the American specialists sent by the F.B.I., have found no identifiable residue of explosives in the blast area—indicating the probable use of a plastic explosive virtually impossible to detect by modern airport security devices.

"We have to change our approach," said Mr. Tsimas, Greece's Secretary General of Public Order. "Until now, we were worried mainly about hijacking. Now it's bombs and suicide attacks."

As deterrents, he cited the commandos in black uniforms carrying submachine guns and pistols stationed around the arrival area, including the T.W.A. counters. Regular blue-uniformed police officers, some with machine pistols, and plainclothes guards also patrolled the airport, he noted.

Security procedures were recently endorsed by the United States Federal Aviation Administration and the International Airline Transport Association, officials reported.

At the Kuwait Airlines counter, private guards made passengers open their bags for inspection even before check-in.

Of the 65 airlines at Hellenikon Airport, 45 now conduct their own security checks in addition to the airport's. Before the recent uproar over terrorism, Greece sought to discourage the airlines from performing private security checks, saying its own were sufficient. Now it has relented. Thus, T.W.A. puts all baggage through its own X-ray machine, as do some other airlines.

After check-in, passengers go through passport control, where they must also show their tickets and boarding passes. They walk through a Metor metal detection machine made in Finland and pass their hand baggage through one of the new Heimann Hi-Scan X-ray machines made by a subsidiary of the Siemens Corporation of West Germany.

#### INDEPENDENT CHECKS

The carry-on bags are then searched again by hand. In addition, T.W.A. and El Al Israel Airlines, among other carriers, put the carry-on items through another X-ray check in the departure area.

To keep its X-ray operators more alert, the Government recently created five-man teams of guards who each work 25-minute tours, then take a break.

Among other precautions is a new fence, which will make a 6-mile ring around the airport perimeter when the final 500 yards of fencing is completed. The project was hastened by a terrorist's near-disastrous bazooka attack on a Jordanian airliner through a hole in the fence last year.

Internal security measures have also been stepped up.

Officials acknowledge that intelligence agents sometimes surreptitiously open passengers' baggage after it has been checked in.

At night, guards sometimes conduct security sweeps, spot-checking passengers.

Airport employees with access to the planes are also investigated, their family backgrounds and sometimes political leanings examined. Employees are not allowed on aircraft unsupervised, officials said, and several armored police cars patrolled near parked planes.

Yet the system does not always perform as planned.

A visitor who arrived early one morning this week from Israel was discomfited to find the terminal seemingly deserted, with little visible security present.

One American official said some businessmen recently told him of a man in a wheelchair, carrying a package, who was generously allowed to bypass airport security by guards who apparently did not even determine whether the man was actually an invalid.

## NEIGHBORHOOD WATCH

### HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. FORD of Tennessee. Mr. Speaker, on April 19, I had the opportunity to speak before over 800 people involved with Neighborhood Watch activities throughout Memphis, TN. I would like to insert my brief statement as a way of promoting Neighborhood Watch programs across the country. It is cost effective, assists in safeguarding residential areas, and gives the participants a unique perspective on crime prevention techniques.

STATEMENT OF CONGRESSMAN FORD ON NEIGHBORHOOD WATCH, APRIL 19, 1986

Let me first thank Councilman Bill Gibbons for inviting me to this morning's breakfast. As evidenced by the turnout today, the concept of Neighborhood Watch is one that obviously has extensive support throughout the city of Memphis. A great many groups have been formally trained in Neighborhood Watch and security related activities. This can only assist in crime prevention. You can be assured that Neighborhood Watch has my full and undivided support.

I only wish that the Congress kept crime prevention more in mind when it recently considered the McClure-Volkmer gun bill, legislation that weakens the Gun Control Act of 1968. That law came into being after the slayings of Martin Luther King and Robert Kennedy some 18 years ago.

It concerns me that it will soon become much easier for criminals to obtain handguns—weapons that are often easy to conceal. This will make it more difficult for the local police departments to enforce the law, and more hazardous for the law-abiding citizen who unknowingly comes across an individual involved in a crime.

For this reason, I strongly urge that the numerous watch groups represented today not take the law into their own hands. It is a dangerous enough job for the police, who themselves are trained for such situations. With the help of groups like your own, working in conjunction with the police department, the goals of crime awareness and deterrence can be more readily achieved. I speak for every Memphian when I say—thanks for all your efforts.

Councilman Gibbons has played a strong role in promoting the education and training of citizens in crime prevention. I hope that as the organization strengthens in the weeks ahead, it will work alongside the Memphis Police Department. After all, they are the crime prevention professionals. With this type of involvement and shared responsibilities, the city of Memphis and its residents will undoubtedly take a bite out of crime.

## DESERVED HONOR FOR JACK McCARTHY

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. FRANK. Mr. Speaker, sometimes our duties as Members of Congress require us to attend events that, to be honest, are a little tedious. But on other occasions, we are privileged to be able to participate in genuine inspiring events which make us proud to represent our districts.

Last month, I was proud to be included in the program in which the people of the town of Swansea honored their superintendent of schools, John E. McCarthy, for his courageous and farsighted educational leadership. Jack McCarthy is an example of the teaching profession at its best: He is a dedicated, hardworking, intelligent man who has worked his way through the Swansea School System to the post of superintendent. As superintendent, he has done an excellent job of guiding the educational system of the town.

Last year, Jack McCarthy was confronted with a situation which has, sadly, confronted a number of school systems. Few have met that challenge as well as Jack McCarthy. A young student in the Swansea School System has AIDS. It fell to Jack McCarthy to decide how the school system would respond. In a manner that shows executive leadership at its best, Jack McCarthy calmed the understandable fears of many of the parents. Consulted medical experts to get the best possible advice, considered the health and safety of all the children of Swansea as well as the rights of the young man with AIDS, and decided—correctly on the evidence—to allow him to continue to attend school. I was proud to be part of the evening in Swansea in which representatives of the entire town turned out to honor Jack McCarthy for his leadership in general, and for the wisdom, courage, and compassion he showed in this instance. Among the most inspiring moments that evening was the showing of a videotape of interviews with students who attended the school where the student with AIDS was enrolled. The unanimously positive attitude which these young people showed toward their classmate made a positive emotional impact on all of the adults in that room.

It was an honor for me to join the people of Swansea in honoring Jack McCarthy. In doing so, they not only paid tribute to an outstanding man; they reaffirmed their belief in the importance of public education for the achievement of many of our social goals. A good deal of attention has properly been paid to the need to improve public education in America in recent years, not enough attention has been paid to the valuable and important work done by so many teachers and administrators in the public schools system, nor to the interest and support which so many parents have given to their work.

I include the following newspaper article about Swansea's honoring of Jack McCarthy as their "Man of the Year," and the various citations and letters presented to Jack on that occasion.

JACK MCCARTHY, SWANSEA'S CITIZEN OF THE YEAR RECEIVES NUMEROUS AWARDS, OVATIONS

(By Barbara Davies)

"It is very difficult to sit and listen to all these positive things people are saying," Jack McCarthy, Swansea Citizen of the Year said in his response to "all these positive things" said about him at the dinner dance held to honor him. The event was held last Saturday night by the Swansea American Legion Post 303, in their hall on Ocean Grove Avenue. "Sometimes it is easier when I'm under attack; the response is quicker coming to me. This has been a very, very pleasant experience for me. Last week was a long week, as superintendent of the school system, meeting with the Selectmen and the Finance and Advisory Board on the school budget. I cannot remember negotiations ever getting along so well," he stated, and, holding up his key to Swansea, "I assume this is the key to the War Chest buried in back of Town Hall? The key to get the money for the schools?"

"I shall not forget for the rest of my life the event which led up to this occasion. That was the most important thing," he referred to his decision and stand to include the Swansea child afflicted with AIDS in school education, after research both medical and with the state department of education. "It was many issues, the effects on the child, the impact on the children, the impact on the staff and community. One thing about Swansea; you and I know each other. I felt that, if we got the information out, the people, as they usually do, would do the right thing.

"The reaction of the children in the junior high was beautiful. They have values clarification in their curriculum; their values were clear. The staff was outstanding. The school committee outstanding; we agreed that the superintendent would carry the ball and the committee stood firm, solid in support, as did the people of the community.

"When I talk in other places about the people of Swansea, their response, how our people are different, I think back about our Citizens of the Year. Their key ingredient is volunteerism. Look at our Little League, Swansea Independent Baseball League, Friends of the Band, Friends of the Cardinals, people working in organizations to make this a better community, caring, desiring to make a better community. I am very proud of and appreciate the kind things you have said, but it's 'we'. I look forward to working for a better school system, a better community, with you."

He had started out saying that same thing, in different words, "It is not what I did. I did what I had to do."

He had been greeted, when he stood to receive his plaque as Citizen of the Year, with a standing ovation. He was again given the tribute of a standing ovation when he closed his responding speech.

Besides the award plaque, many other commendations were presented, marking respect for both his decisions this year and throughout the many years he has worked for the children of Swansea.

The school committee, Robert Paquette, James Carvalho, Russell Howarth, Eugene Rutkowski, Steve Dzalio, and long term past member Joseph Arruda, presented a silver Revere bowl to mark this proud moment. This noted Jack's career in education, "hired as a teacher and assistant football coach in 1956; baseball coach in 1958, head

football coach from 1960 to 1967; in 1968, assistant principal at Brown School; in 1969, principal of the junior high; in 1975, assistant to the superintendent; in July of 1977, superintendent, 30 long years of hard, dedicated work."

Congressman Barney Frank presented his congratulations to the Town and the Post for honoring Jack McCarthy, "as an individual and for his role in education. There is no more important job than to educate our children and at this time particularly, to teach them how to deal with the new technology." He said that he is very proud that, in his district, the AIDS problem was handled with compassion and intelligence. "His example, this town's example is outstanding. This town is doing the right thing for a man who has been doing the right thing for a long time."

Congressman Frank is mailing a citation and said he will be entering this experience in the Congressional Record.

Senator John Parker brought the Golden Dome citation and his best wishes. "I am proud to be a part of those people honoring one who stood up for what he thought the right thing to do, a man who didn't go with the tide. That is a man." Senator Parker also brought for Barbara McCarthy a citation for "an honorary distinguished citizen in recognition of your example of affectionate sharing, good citizenship, humanitarianism, and a productive life which has made many contributions to your fellow citizens," noting that "the little woman is the comforting last stop of the day, closing the day with a wonderful feeling."

Representatives Philip Travis and Joan Menard jointly presented the citation from the House, giving their personal congratulations and best wishes. Travis noted that "as a coach, teacher, super-superintendent you have done more for the town, consistently . . . a pride for the town . . . an outstanding person, working dilingently, particularly for the children." Menard, present also as a friend of the family, as a former educator, spoke of "how proud we are of him. Swansea is very, very lucky to have him."

Selectman Chairman Donald Hyland presented Swansea's citation and proclamation of this week as "Jack McCarthy Week." Hyland recalled one example not previously noted during the program: how Jack, then swimming director for Swansea at the lessons at The Bluffs' beach in the mid-60's, had saved the life of a boy who dove and broke his neck, "and the boy is still living today." Hyland, as chairman of the Town Democratic Committee, also presented Senator Ted Kennedy's congratulations and admiration.

Selectman Clerk Donald Lesage presented the key to Swansea, referring to Jack's career in Swansea education and stating that "it is amazing that this was not done years ago."

Sue Travers, representing The Friends of Mark, presented a citation in recognition of Jack's compassion to Mark, reporting that Mark would have come but he has a fever and is hospitalized as of Wednesday.

Roger Gibeau presented a plaque for the Friends of the Cardinals, expressing their pride and appreciation of Jack McCarthy.

Gene Rutkowski presented a plaque for the Little League, for Jack's contributions as "teacher, coach, superintendent."

Lionel A. Morais, chairman of the Awards Committee and master of ceremonies, reported letters of congratulations from Selectman Jack Heywood, working; from Betty and Abe White of Fall River; and from the School Committee Association.

Morais also reminded those celebrating this year's awardee that the choice is not made by the Post "but by a committee of heads of all local departments and services and organizations, and Barbara Davies of the news media."

He recalled past citizens, Helen Reagan, present; Robert Eddy, present; Judge Tony Aguiar; Roger Gibeau; Judy Cabral, hospitalized; Ray Eddy, represented by Fire Chief James Eddy; and "those who are not now with us, Doc Compton and John Borden."

The kitchen crew, headed by Chef Sid Boutin were thanked for the delicious roast beef dinner. Leo Bernier, State Vice Commander of the Legion, was thanked for assisting in the ceremonies.

After the reception line of more than 200 persons (limited by the building capacity and tickets on a first come, first served basis) offering personal congratulations, dancing was enjoyed at this Ninth Annual Citizen of the Year ceremony.

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SUPT. MCCARTHY HONORED FOR STAND ON AIDS

(By John Castellucci)

SWANSEA, MASS.—Elsewhere in the country, the question of whether to allow an AIDS victim to attend school has become engulfed in hysteria. Parents have picketed, officials have vacillated and children with AIDS have been shunned by their classmates and friends.

But in Swansea, where a teenager afflicted with AIDS has been attending classes since autumn, the community has been united in sympathy for the victim—instead of divided by controversy over whether it is safe to allow him in school.

On Saturday night, the man whose firm stand helped stem the tide of controversy was honored.

School Supt. John E. McCarthy was named Citizen of the Year by American Legion Post No. 303, and a crowd of 215 well-wishers gave him two standing ovations at a roast-beef dinner in his honor. A procession of politicans praised his courage in allowing Mark, a 13-year-old boy who acquired AIDS while undergoing treatment for hemophilia, to attend school.

And three mothers whose group, Friends of Mark, raised $10,000 to help meet Mark's medical expenses, made it clear that it was thanks to McCarthy that what happened in Queens, N.Y., where parents picketed to keep a child with AIDS out of classes, and Kokomo, Ind., where school officials barred an AIDS victim from school, has not happened here.

"In talking to school systems all over the country, we realized that the biggest difference was that Mr. McCarthy took his stand and didn't back down from it," said Susan C. Travers, a member of Friends of Mark. She said that McCarthy "made it very easy for us to say, 'OK we're going to take the ball and carry it.' "0

Linda M. Nahas and Robin A. Sherman are also members of the group.

Friends of Mark was just one of many groups that paid tribute to McCarthy, presenting him with a plaque for "the courage and compassion (he) showed during the most difficult of times."

There was an award from the Board of Selectmen, which gave McCarthy the key to Swansea. There was a letter of congratulation from Sen. Edward M. Kennedy and a silver bowl from the Swansea School Committee.

Sen John F. Parker, minority leader of the Massachusetts Senate, gave McCarthy its Golden Dome award. And Rep. Philip Travis, D-Rehoboth, gave him a citation from the Massachusetts House, noting his status as 1986 Citizen of the Year.

"People forget sometimes that the public schools have a special role in our society," Rep. Barney Frank, D-Mass, said in a brief speech. "They can't say no. They can't turn anybody away."

But misunderstanding about AIDS and the misapprehension that victims might spread it through casual contact have become widespread. Frank said that he felt proud to represent a town that had overcome its fear and done "the right thing."

McCarthy was modest about his decision. Looking dapper in a pin-stripe three-piece suit, the 55-year-old superintendent said simply, "I just did what I had to do." Then he went into detail.

"We spent a great deal of time researching the problem" of AIDS, and whether a student afflicted with the disease could transmit it to other students, McCarthy told the audience. When all the research was done, he said—when doctors and experts had been consulted—"there was no doubt in my mind" that Mark should be allowed to attend school.

Neither Mark, who made the honor roll this year, nor his parents attended the dinner. He was running a fever and had been admitted to the hospital for observation, Susan Travers said.

If there was any doubt that Swansea was united in sympathy for the AIDS victim, it was dispelled by a videotape of his classmates discussing how they felt.

The videotape was presented by Lionel A. Morais, town moderator and head of the Citizen of the Year selection committee. The lights were dimmed and the crowd watched quietly.

"There's nobody here that doesn't want him back; he belongs here," one eighth-grader said on the video.

"He deserves exactly what we should get, because he's part of the school," another said.

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TOWN OF SWANSEA, MA,
OFFICE OF SELECTMEN.

PROCLAMATION

Whereas, John E. McCarthy has served his community with distinction and honor as an educator and leader for thirty years in the Swansea School System, and

Whereas, John E. McCarthy has given generously of his time and energy for our most important resource, our children, and

Whereas, John E. McCarthy exemplifies the two most important qualities that one can attain in any profession, that is respect and reputation, both of which are openly expressed throughout our community, and

Whereas, the friends of John E. McCarthy are doing him honor as "Citizen of the Year" at a dinner hosted by the American Legion Post 303 in the Town of Swansea and therefore be it.

*Resolved,* The Board of Selectmen take this means of expressing their appreciation and admiration to John E. McCarthy for his dedicated and inspirational service to his community and do hereby proclaim John E. McCarthy as Citizen of the Year.

In testimony whereof, We hereunto sign our names and cause the seal of the Town of Swansea to be affixed this 29th day of March in the year of our Lord, Nineteen Hundred and Eighty-Six.

DONALD F. HYLAND,
*Chairman.*

DONALD F. LESAGE,
*Clerk.*
JOHN B. HEYWOOD.
MICHAEL W. FINGLAS,
*Executive Secretary.*
U.S. SENATE,
*Washington, DC, March 29, 1986.*

JOHN E. MCCARTHY
*Superintendent of Schools, Swanesa, MA*

DEAR JACK: Many others have added their comments on the conduct and the courage you demonstated with the very sensitive issue of that afflicted junior high school student.

But I would like to express my congratulations and gratitude to you for setting an extroardinary example of judgment and caring for both the community and those young people whose education is entrusted to your administration.

Few can envy the responsibility of a school superintendent no matter the size of the city or town or school system. Few positions have more need for the ability to make difficult decisions on behalf of both the students and the parents, as well as those who govern the community.

It takes, I believe, a blend of wisdom, fortitude, and street sense to make the job one that has respect of all of the above.

Your commitment and dedication certainly have done just that, and I want to join with your many friends and supporters in congratulating you on the well-deserved award of Citizen of the Year by the Swansea American Legion Post No. 303.

With my very best wishes to you.

Sincerly,

EDWARD M. KENNEDY.

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THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE DEPARTMENT,
*Boston, MA; March 4, 1986.*

LIONEL A. MORAIS,
*Veterans' Benefits Department, Town Hall, Main Street, Swansea, MA*

DEAR MR. MORAIS: Thank you so much for offering me the opportunity to participate in the Swansea American Legion's Citizen of the Year Award.

I wish I could be with you on this important occasion, as I can think of no one more worthy of this award than John McCarthy. However, on March 29th I will be on vacation with my family.

Although I cannot accept your kind invitation, I have sent, under separate cover, a Governor's Citation honoring John McMarthy that can be read during the evening. I hope you will extend my warm personal best wishes, and the greetings of the commonwealth to Superintendent McCarthy. He has proven himself to be not only a superb educator but a man of intelligence and compassion.

I hope the evening will be an outstanding success, and I thank you again for thinking of me.

Sincerely,

MICHAEL S. DUKAKIS,
*Governor.*

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LIST OF AWARDS

Presented to Jack McCarthy, In Recognition of the Courage and Compassion You Showed During the Most Difficult of Times With Much Affection and Deepest Respect—Friends of Mark.

John E. McCarthy, Swansea Citizen Of The Year, Congratulations, Swansea Little League.

John E. McCarthy, Swansea Citizen Of The Year, Congratulations, Friends of the Cardinals.

Commonwealth of Massachusetts, State Senate Golden Dome Citation.

The Commonwealth of Massachusetts, Michael S. Dukakis, Governor—To John E. McCarthy on the occasion of your Ninth annual Civic Awards Night better known as Citizen of the Year Award.

The Commonwealth of Massachusetts, The House of Representatives Citation—Be it hereby known to all that: The Massachusetts House of Representatives hereby offers its sincerest congratulations to: John E. McCarthy, Superintendent of Schools, Swansea Citizen of the Year—1985 in recognition of his commitment to excellence in education for all the young people of the Community.

John E. McCarthy, Swansea Post 303, Citizen of the Year 1985, in recognition of years of dedicated service.

## WILSON WALKIES—A BIT OF WATSONTOWN HISTORY

### HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. GEKAS. Mr. Speaker, in 1930 no one could have guessed that spending a quarter to buy a wooden toy called a Wilson Walkie would also get you one slice, albeit a small one, of American history.

The Wilson Walkie is a toy some of my colleagues here in the House may very well remember as a youngster. It is a small walking figure made from discarded thread spools, wooden heads, and curved pine feet. These figures, which included: Cartoon characters such as Donald Duck, Popeye and Olive Oyl, Santa Claus, clowns, and even the Democratic donkey and the Republican elephant, were created from wood by John Wilson—a master carpenter, inventor, and toymaker from Watsontown, PA.

In the 1930's John Wilson held the position of superintendent of the Watsontown Door and Sash Co. When the door and sash company closed due to financial difficulties, Wilson decided to open the Wilson Novelty Co., where he manufactured the Wilson Walkie and other toys and novelties. As the company grew, the company moved from the original factory site in an old garage to the old shoe factory. There were 80 full-time and 20 part-time employees as well as many others who did piecework out of their homes. The Walkies were distributed through the F.W. Woolworth Co., as well as to countries around the world. The company was run by John Wilson until his death in 1948. Shortly after his death, the company was sold to a Canadian-based firm who continued to make the Wilson Walkies for a few more years.

The Wilson Walkie is considered a collector's item today. A few manage to turn up every so often at public sales. The Wilson Walkie and the work of John Wilson will long be remembered not only for the work it brought to the Watsontown area during the trying 1930's and 1940's but also for the joy and fun it brought to young and old alike.

## EXECUTIVE DIRECTOR OF UNFDAC ADDRESSES U.N. DRUG COMMISSION

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. GILMAN. Mr. Speaker, I have recently received a communication from Dr. Giuseppe di Gennaro, executive director of the United Nations Fund for Drug Abuse Control [UNFDAC] in which he enclosed a copy of his statement to the ninth special session of the United Nations Commission on Narcotic Drugs. Dr. Di Gennaro's address contains significant information on recent developments in the worldwide fight against drug trafficking and drug abuse which I believe my colleagues will find worthy of their attention. Dr. di Gennaro's statement is as follows:

STATEMENT BY MR. GIUSEPPE DI GENNARO

Mr. Chairman, distinguished Delegates, Colleagues, in recent years, the role of the United Nations Fund for Drug Abuse Control has gained world-wide recognition while multilateral assistance in the strategy against drug abuse has received increasing consensus. The substantial growth in UNFDAC resources, the numerous requests for assistance and the continuous expansion of UNFDAC activities are concrete and visible demonstrations of this trend. UNFDAC operations which, only a few years ago, were calculated in terms of thousands of dollars now reach levels of millions. However, the present financial dimension of UNFDAC is still disproportionate to respond adequately to the enormous needs in the different geographical areas and sectors hit by the drug phenomena.

As in the past, I wish to take this opportunity to update the information provided in UNFDAC's 1985 reports to the Commission. In the present and perspective financial situation, there are some elements which are most indicative of positive changes: Indications have been received from the Government of the United States of its intention to provide an additional amount of 5 million US dollars for programmes in Pakistan. The Government of the United Kingdom in turn has also pledged an additional 2.4 million Pounds Sterling for activities in Pakistan as well as 1 million Pounds Sterling for programmes in Latin America. Two new contributions have been announced at the end of last year by the Italian Government which pledged 2.0 million US dollars for activities in Thailand and 3.0 million U.S. dollars for treatment and rehabilitation programmes in the Andean Subregion. Furthermore, I am pleased to report that the Government of Canada has recently pledged 1.0 million Canadian dollars for activities in Pakistan and is also considering an additional contribution of 1 million Canadian dollars for the Masterplan in Thailand. The Government of Sweden has pledged 8 million Swedish Kroner in 1985, which is twice as much as that pledged in 1984. In December 1985, the Government of the Federal Republic of Germany has pledged an amount of 3 million Deutsch Mark for a rural development/coca substitution project in Colombia.

Other important developments in the fund-raising operations are in sight: UNFDAC has received encouraging indications from the Governments of the Netherlands and Norway that they are considering major contributions to important segments of UNFDAC programmes. The positive attitude of the Dutch authorities was already manifested by that Government's recent decision to make available to UNFDAC the services of a Junior Professional Officer who will join our forces in Latin America. By the same token, I would also like to thank the Governments of the Federal Republic of Germany, Finland and Italy for having provided similar personnel resources for UNFDAC field operations. I am also pleased to report that UNFDAC expects a strong involvement of the European Economic Community in the UNFDAC programmes for Pakistan and Thailand.

Another demonstration of the growing support of Member States is the increase in the number of contributing countries. The People's Republic of China has joined them, for the first time, on the occasion of the last Pledging Conference.

In some cases, when the contributions were of a considerable amount, the donor countries have collaborated directly with UNFDAC staff, seconding their experts in project identification missions. This was the case of missions to Latin America, Burma and Thailand during November and December 1985. I wish to express my satisfaction with this type of co-operation which contributes greatly to an immediate and direct appraisal of the political, social, economic and organizational problems encountered by UNFDAC in the execution of its mandate.

In order to respond to the new programme requirements, special attention has been given to the distribution of the staff resources. UNFDAC has lived up to its commitment of keeping the Headquarters staff at a minimum level in spite of the remarkable extension of its work. Preference has been given to the offices in the field. At present, there are Field Advisers in Bolivia, Burma, Colombia, Pakistan, Peru and Thailand. While increasing the number of Field Advisers, UNFDAC has taken action to review and systematize some basic issues relating to their functions and to their working relationships with local authorities, the executing agencies, the Resident Representatives of UNDP and with UNFDAC Headquarters. An important step in this direction has been a seminar of Field Advisers which UNFDAC convened, here in Vienna, two weeks ago. The seminar has contributed to a more precise design of the profile of the Field Adviser profession. An important by-product of this meeting was the clarification of some questions concerning programme execution procedures. It was considered that the presence of UNFDAC, through its Field Advisers, in the main threatres of operation is greater than that of the representatives from the executing agencies, and therefore, UNFDAC is in a position to follow more closely the various segments of drug control activities under way. This fact suggests that the functions of the Field Advisers can go beyond the supervisory, monitoring and co-ordinating tasks, so that the traditional execution moda operandi could be reconsidered.

As outlined in UNFDAC 1985 reports, the Masterplan approach which the Commission is familiar with, has proven to be a valuable working instrument strongly supported by recipient and donor countries. Preparatory work is in progress for responding to requests for the formulation and implementation of Masterplans for Argentina, Brazil and Peru. UNFDAC is currently discussing with these three countries the activities to be undertaken.

The Masterplans for Burma and Ecuador are in a more advanced stage. I wish to take this opportunity to express my deep appreciation to the Governments of these countries. The former engaged itself in the preparatory activities with such a determination that it was possible within a very short time, to compile all the information and findings on the local drug abuse problems and related needs, and to structure these data in the frame of an articulated plan which was adopted at the end of 1985 by the Government. The plan covers multi-sectoral activities requiring an investment of 10.7 million US dollars over five-years. The Burmese authorities have committed themselves to eliminate each year some 90 tons of the illicit opium production during the implementation period of the Masterplan. This will result in the complete elimination of opium poppy cultivation in Burma.

Ecuador has been faced recently by the manifestation of rising drug abuse, as well as a large expansion of illegal coca bush cultivation in rugged and nearly inaccessible areas. During a UNFDAC mission to Quito in March 1985, a formal political commitment for a global fight against drugs and the adoption of a coca control Masterplan were considered for the first time. Only four months later, the Government adopted a National Plan for the Control of Illicit Traffic and the Prevention of Drug Abuse, on the basis of which an operational Masterplan of 10 million US dollars was elaborated. During a second UNFDAC field mission in October 1985, the document was reviewed. The Masterplan is now finalized and each project included therein contains provisions on the Government's commitment to eliminate illicit coca cultivation within a period of five years.

During the last three years, UNFDAC expanded its programmes both in Asia and in Latin America. Now the time has come for other important geographical areas to be included in UNFDAC's operative scenario. These would be Africa and the Caribbean. As indicated in UNFDAC's reports, preparatory activities are underway for the identification of some priorital needs of these regions and for the design of drug control programmes.

We have learned that the day-to-day critical appraisal of the implementation of our projects is important in identifying in a timely fashion additional needs and the changes occuring in the already identified ones. UNFDAC has the duty to signal these data to the international community. In this regard, mention should be made of some perverse side effects of the anti-narcotic programmes. UNFDAC is aware that in view of the links among the various drug phenomena and, in particular, the readjustments of the strategy of crime syndicates involved in drug trafficking, success in one area tends to generate problems elsewhere. These coming problems are often timely foreseen by us but this does not help us to prevent and control them because of lack of resources. A recurrent perverse effect is the displacement of illicit cultivation to neighbouring countries and the redirection of trafficking routes. I hope that appropriate consideration be given by the international community to this issue, knowing that the impact of side-effects can counteract and even negate the positive results of our work.

Mr. Chairman, the recognition that UNFDAC is receiving is manifested by the repeated appeals from qualified bodies that its role be strengthened. The General Assembly, in its resolution 40/122, included the increasing support for UNFDAC among the issues to be covered by the forthcoming International Conference on Drug Abuse and Illicit Traffic. It also referred in resolution 40/121 to the vital role played by UNFDAC. The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders which unanimously adopted resolution 3 on "international co-operation in drug abuse control" invited Member States to take full advantage of UNFDAC services in order to achieve greater impact on drug control through improved co-ordination and united programming. Last September the European Parliament adopted five resolutions on drug abuse control emphasizing the need for strengthening international co-operation through, inter alia increased financial contributions to UNFDAC and through the participation of the European Commission in the implementation of the Masterplan in Thailand. Reference can also be made to the statement on the international drug problem, issued in July 1985 by the Foreign Ministers of the member countries of the Association of South East Asian Nations, as well as to the resolution adopted by the Organization of American States which will soon convene a Specialized Conference on Drug Traffic. Additional recognition of UNFDAC's role stems from the document which emerged from the Bonn Summit of May 1985 entitled "options for individual and collective action to intensify the fight against drug abuse" which will be considered by the next Summit Meeting in Tokyo, as well as the recent decision of the Development Assistance Committee on the OECD to organize a meeting in order to identify and understand the concrete linkages between development and drug abuse control. This meeting will help raise the awareness of Governments of ths new dimension and its negative impact on the economic and social conditions in many countries.

Mr. Chairman, in concluding, I wish to stress that the gravity of the drug phenomena, their close connection with organized crime, their impact on the social and economic development processes in many countries and the awareness of the necessity to counteract them effectively through a multilateral strategy are all factors which have contributed to a new momentum in the growth of UNFDAC's financial resources and to the enhancement of its activities.

While this growth of UNFDAC is encouraging, it should not lessen the conviction that the dimension of the phenomena with which we are confronted requires a hundredfold increase in the resources available at present.

Mr. Chairman, the crowded and heavy agenda of this special session will probably prevent the Commission from holding an exhaustive discussion on UNFDAC's programmes. Should there be any need for further information or clarification, the UNFDAC staff remains at the disposal of the distinguished delegates at all times.

## NEWARK CELEBRATES ITS 150TH ANNIVERSARY

### HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. RODINO. Mr. Speaker, 1986 is a very special year for the city of Newark, which is celebrating its 150th anniversary of incorporation. In honor of this special anniversary, the Newark Museum has planned a series of exhibits, cultural tours, and educational programs. The focus of these events is the evolution of Newark—the Nation's third oldest major city—from a rural town to a center of industry, commerce, finance, and art. Among the Newark Museum events planned are:

Made in Newark. Decorative area, 1836-1986. From the mid-19th century on, Newark's factories produced many types of decorative and useful household objects. Featured in this exhibition are examples by such celebrated Newark firms as Tiffany & Co., Unger Brothers, William B. Kerr Co., and John Jelliff and Company.

A Newark Sampler. Works from the Collection of the Newark Museum, 1836-1986. This exhibition features paintings, watercolors, drawings and sculptures that give an historical overview of artistic activity in the City of Newark over the last 150 years.

Money & Medals of Newark. More than 250 items from The Newark Museum's fine and extensive collection illustrate details of Newark history, including the official City Seal, created by Act of Council in 1836.

Noontime Tours of Newark. Renaissance and Restoration. A series of Tuesday noontime tours organized by the Museum will visit such sites as Penn Station, the Cathedral of the Sacred Heart, the Ironbound and St. Joseph's Plaza.

Group Tours. For children and adults. The Newark Museum Education Office will offer tours of the 1985 Ballantine House restoration, cultural bus tours of Newark and a special slide show.

Mr. Speaker, I join in the salute to this great city and its people, and I commend to you the following article on Newark's history, which was published in Metro Newark magazine:

A PORTRAIT OF A GROWING CITY

[NOTE.—The following is a thumbnail sketch of Newark's history, compiled by members of the New Jersey Historical Society.]

Four barrels of beer and 10 kettles. A hundred bars of lead and a load of wampum. To say nothing of troopers' coats, swords, axes and blankets. These European imports were the bargain price of Newark in 1666, when Robert Treat and four other settlers from the New Haven colony in Connecticut bought it from the local Lenape (or Delaware) Indians. The settlers named the town for Newark-On-Trent in England, where the Rev. Abraham Pierson, one of their leaders, was born. The original Newarkers were Congregationalists, with their own religious and political ideas. They established a New England-style town-meeting form of government and set themselves to farming some of the best land in eastern New Jersey. For a century they grew grain, raised livestock, kept orchards and perhaps never dreamed that Newark would be more than a sleepy provincial village.

The Puritan village of Newark grew slowly during colonial times, boasting only 1,000 souls on the eve of the American Revolution. Among Newark's contributions to the Revolutionary Era were Alexander MacWhorter, pastor of Old First Church, and Aaron Burr, a native son who served with distinction in the war and later achieved political prominence—followed by infamy—when he mortally wounded Alexander Hamilton in a duel. The crowds of Newarkers who greeted Gen. George Washington in November 1776, after a five-day British occupation and plundering of the town, could not have imagined Newark's bright future.

While Newark had been little more than a farming village and an emporium for produce from the Passaic Valley, the slow process of industrialization was beginning. Shoemaking was the industry most closely associated with the city's early history. In fact, Charles Basham's 1806 map of Newark featured a shoemaker, hard at work, as the town's symbol. Other important local crafts included the making of furniture, carriages, and coach lace. Crafts gradually became industries in the first half of the century, as Newark grew into one of the nation's chief inland manufacturing centers. Transportation highlighted the 1830s as railroads came to Newark, the Morris Canal was opened and the city became an official port of entry.

Newark was incorporated as a city on March 18, 1836 by an overwhelming vote of the public. And in April of that year, the city's first mayor took office.

Soon, the inventiveness and industry of its rapidly growing population, coupled with a rapidly expanding transportation system, opened the vast markets and business opportunities of New York City to Newark, establishing it as the undisputed economic capital of New Jersey. The city's expansion was continually bolstered by waves of immigrants—in the first half of the century, Irish and German, and in the second half, Italian and Eastern European. In fact, the story of Newark's industrial growth can actually be read in the individual success stories of its residents—inventors, salesmen, bankers and others. In fact, Newark's technological pioneers—Seth Boyden, John Wesley Hyatt, Edward Weston, Hannibal Goodwin and Thomas Alva Edison—actually propelled the city into one of America's top 10 industrial centers by the second half of the century.

Others helped to build economic vitality. John F. Dryden, founder of The Prudential Insurance Co. of America, also helped to found the Fidelity Trust Co. (now First Fidelity Bank). The bank helped to supply the capital to fuel Newark's expansion, including much of the financing of the Public Service corporation founded in 1903.

In 1864, George A. Clark arrived in Newark from Scotland to found the Clark Thread Works. By 1866, he employed more than 1,000 persons in his new plant on the north end of the city, and Clark's "O.N.T" thread was found in virtually every sewing basket in America.

Hahne's, the city's oldest department store, was founded in 1858 as a bird cage store. By 1870, it had expanded to include general merchandise, opening its present building on Broad Street in 1901. Louis Bamberger founded his store in 1892 by purchasing the bankrupt stock of Hill & Craig. By 1898, Bambergers covered six floors. The sales ladies, dressed in long black aprons, sold a wide variety of merchandise to the city's increasingly affluent population.

By 1884, Newark had 10 banks and five savings institutions. As a result of their conservative policies, they had survived the panic of 1873 in such good shape that several New York banks actually came to Newark to borrow money to keep afloat. And by 1895, Newark's growing insurance companies were so successful that the city ranked fourth in insurance assets. Only New York, Philadelphia and Hartford outranked Newark in this regard.

As in other American cities, unfortunately, the Great Depression dissipated much of the enthusiasm that had developed in the late 19th and early 20th centuries. But today, Newark can take pride in an extraordinary rebirth, reflected in exciting center city development projects and state-of-the art transportation facilities, with the promise of renewed momentum in the commercial and manufacturing sectors and a new era of cultural, educational and community vitality.

## LEGISLATION TO SUSPEND DUTY ON IMPORTATION ON CHEMICALS USED IN PRODUCTION OF PRINTING INK

### HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. JENKINS. Mr. Speaker, today I am introducing two bills that suspend the duty on the importation of two chemicals that are precursors used in the production of printing ink and dies for textiles. These two chemicals are not produced in the United States. The suspension of the duty on these two chemicals will act to lower the overall costs of producing textiles in this country. As we are all aware, the textile industry has been hit especially hard by imports. I am doing everything I can to keep our industries on a fair competitive footing with their foreign competition. When our foreign competitors can print and die their textiles free of this duty, we are placing our domestic industry at a competitive disadvantage. Since there is no domestic production of these chemicals to be concerned about, it is senseless to continue this duty. My bills suspend the duties on these two chemicals, 3-nitro phenyl-4-beta-hydroxy sulfone (also known as nitro sulfon B) and 4-chloro-2,5-dimethoxy aniline (also known as chlor amino base), through December 31, 1990. This will give us time to study the effect of the duty suspension on the chemical industry to determine if we should then repeal the duty outright or continue the suspension for another period.

## WILKES-BARRE—A CITY ON THE GROW

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. KANJORSKI. Mr. Speaker, less than 15 years ago many so-called economic experts said that the city of Wilkes-Barre, and all of northeastern Pennsylvania were done for. We were told our region could never survive the

double whammy of Hurricane Agnes and the decline of the anthracite coal industry.

As the following article from yesterday's New York Times demonstrates, the experts underestimated the courage and determination of the people of northeastern Pennsylvania. Today the city of Wilkes-Barre and other Wyoming Valley communities have rebuilt the areas ravaged by the flood and are stronger and more vital than ever before.

Rebuilding, and diversifying the local economy has not been easy. It has taken a concerted effort by thousands of individuals, businesses and civic groups, as well as a helping hand from the Federal and State governments.

It is worth noting that the reconstruction and revitalization of the Wyoming Valley was made possible, in part, by the very economic programs this administration is determined to slash or eliminate: EDA, UDAG, CDBG, SBA, FmHA, and EPA.

That the Wyoming Valley has come so far is a tribute to the industiousness and spirit of the people who live there. That work ethic is only one of the major economic factors which is attracting astute businessmen to locate their new plants in northeastern Pennsylvania.

We also offer a first-rate transportation system with easy access to all the major east coast markets, a plentiful supply of skilled labor, ample water, and reasonably priced energy. Our labor, construction and land costs are well below those of most competitors, and our many recreation areas and peaceful surroundings make northeastern Pennsylvania an attractive home for those of us who have had enough of the grime and crime of our major cities.

Lindsey Gruson's article documents the revival of the city of Wilkes-Barre, and why so many businessmen are finding the Wyoming Valley an attractive place to do business.

[From the New York Times Apr. 20, 1986]

REBORN WILKES-BARRE COUNTS FLOOD AS BLESSING

(By Lindsey Gruson)

WILKES-BARRE, PA.—Like a bowling ball jumping lanes, the swollen Susquehanna River crushed through its banks here in 1972, carving a channel through the narrow Wyoming Valley and crushing this low-lying town.

As church bells pealed and the roaring waters settled back behind their dikes, many residents said the flood had hammered the final nail into the coffin of this grimy, decaying coal city.

But now the flood is viewed as something of savior, an accelerated form of urban renewal. The city has been rebuilt, from sewers to skyscrapers. The omnipresent black stains that once branded it as a coal center have been washed away. Wilkes-Barre is now so new, so modern, that grains of sand in its smooth white sidewalks shimmer in the spring sun.

After four decades of steep and painful decline, the city's reconstruction is only the most obvious illustration of the area's economic rejuvenation. signs of the long-awaited revival now sprout like the pink blossoms of the cherry trees that were planted after the flood.

FORCED MARCH OF DEVELOPMENT

"In the long run, the flood was the best thing that ever happened to the city," Mayor Thomas V. McLaughlin said. "Everybody thought we were a dying town. But the flood brought us together and gave us a completely new downtown. It pushed development here that nobody even dreamed about 10 years ago. Things are really looking up."

Trouble spots remain, of course, and the area, which fueled the country's 19th-century growth into an economic colossus, is unlikely to regain its former prominence. Many of the region's longtime industries, like coal, steel and textiles, remain depressed.

Like much of the Northeast, this region was victimized by foreign competition and economic trends that turned it into a distress zone. Workers are still being laid off in northeastern Pennsylvania. Unemployment remains high at 9.1 percent, 2.4 points higher than the national average. Taxes, although declining, are still higher than in many competing states, and after years in which many young people left, the population in the greater Wilkes-Barre area, about 250,000, remains older than the nation's average, with one in five residents collecting Social Security.

But bit by bit, investment is flowing back to the area, raising spirits and hope. Young people are returning, construction is booming and real estate prices are climbing. For the first time in recent memory, some officials openly dream of new municipal projects.

Barely a week passes without some company announcing a new project, another plant expansion or some other program. Most of the new companies are small, primarily in printing, data processing, snack-foods and leisure industries rather than the industrial giants of the past.

Taken together, many executives and economists say, that shows the area has not only weathered the crisis but begun to rebound.

"We've turned the corner in the last five or six years," said James H. Ryan, president of the Wilkes-Barre campus of Pennsylvania State University. "And in the last two years things have been very upbeat. There's a renewal going on."

In many ways the area's revival springs from factors that have lifted the country's economy as a whole, like cheaper oil, lower inflation and reduced interest rates. But economists say the reasons go deeper, paralleling those that are not helping the Northeast in an economic tug-of-war that was once widely considered lost.

"We like to feel the North is rising again," said John H. Ruehlman, a regional labor analyst for the state.

This success grows out of an interlocking web of advantages, state officials, business executives and economists say, including the region's strong universities, which have produced a steady supply of ambitious graduates, its well-developed transportation system and its proximity to major markets. These factors combined to reverse migration to the Sun Belt and to propel the Northeast, especially the corridor between New York and Boston, into the forefront of the nation's economy.

That revival is now moving west, spilling into northeastern Pennsylvania, executives and economists said.

Unlike Massachusetts, which has the nation's lowest unemployment rate, northesst Pennsylvania still has a vast pool of skilled, unemployed workers. Unlike New York or Connecticut, it still has affordable real estate and one of the nation's lowest crime rates.

"I like to think of us as an underutilized area," said Richard M. Ross Jr., president and chairman of the First Eastern Bank, which is building a new seven-story headquarters in downtown Wilkes-Barre. "A lot of back-office and first home development is moving west. It's pure economics. You can't pay the rents of New York, or even New Jersey, indefinitely without looking around for places to do it cheaper."

In addition, executives and regional officials say, the area has some singular advantages. The Wyoming Valley is within five hours' driving time of a third of the country's population and 46 percent of its buying power. It has some of the country's cheapest electricity and a vast amount of water. A virtually inexhaustible supply of culm, a by-product of coal mining, gives it plenty of low-cost steam, a vital ingredient in many industrial processes.

Residents and economic development officials also point to the leisurely pace of life in the area and its abundant recreation facilities. What it lacks in culture, it makes up in the outdoors, they say. Cascading trout streams, rolling hills and deep lakes make the area something of a sportsman's paradise, they say.

"The Endless Mountains of Pennsylvania are one of the country's best-kept secrets," said Andrew J. Sordoni 3d, chairman of Commonwealth Telephone Enterprises.

'TRUCK CAPITAL' WITHSTANDS BLOW

The area's growing strength was illustrated in a paradoxical way in January when Mack Trucks announced it would lay off 2,000 workers and move its main assembly line out of nearby Allentown, which over the years had come to identify itself as the Truck Capital of the World. But the area has gained enough that the decision was more a psychological blow than an economic setback.

In the last decade, the number of workers holding nonmanufacturing jobs in the five-county area around Wilkes-Barre has jumped to 201,500 from 169,600, more than offsetting the decline of 10,800 jobs in manufacturing.

The Wyoming Valley has not attracted any industrial giants, but it has benefited from incremental progress and recruited small entrepreneurs.

"It's the niche players, the entrepreneurs and not the institutions," Mr. Sordoni said. "A place like this offers you a chance to make a mistake. It's far easier to bring Mohammed to the mountain than Mohammed and his foothills. It's far easier to bring people, than people and their widget-making machines."

## A TRIBUTE TO MR. VICTOR LECCESE

### HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. LENT. Mr. Speaker, it is my distinct pleasure at this time to recognize an individual who has made a significant contribution to excellence in the field of education. This individual is Mr. Victor Leccese, superintendent of schools in Oceanside, NY. After 30 years of distinguished and dedicated service to the schools, the students and the community, Mr. Leccese will be retiring from the Oceanside

School District. On May 8, Mr. Leccese's family, friends, and colleagues will hold a testimonial dinner in his honor. In recognition of this memorable occasion, I'd like to take this opportunity to recognize Mr. Leccese's many outstanding accomplishments and his vaulable contributions to education and the Oceanside community.

Mr. Leccese began his professional career in 1956 as a guidance counselor with the school district. Since that time he has served in many capacities, as director of pupil personnel, principal of the Boardman Junior High School, coordinator of secondary education, and as assistant superintendent, before assuming the position as superintendent of Oceanside schools. In his various positions, he has been responsible for nearly every facet of management, including curriculum, personnel, budget development, and administration.

Mr. Leccese has been an effective leader in the field of education who is well-respected by his colleagues. This past summer, I met with Mr. Leccese and representatives of the Oceanside PTA Council and Board of Education to discuss the impact of tax reform on our local schools and education. I was presented with petitions signed by over 7,500 Oceanside residents protesting an end to the State and local tax deduction so important to New York taxpayers. This deduction is critically important to preserving the high standard of education in Long Island's public schools. Their help was essential in winning the fight in the House to retain this important deduction, and I am grateful for their support.

Admired by many for his dedication to meeting the educational needs of our young people, Mr. Leccese has worked hard so that our children could have the best possible education. His guidance and sound judgment have been a source of inspiration for many, and he will be sorely missed.

I'd like to extend my deepest appreciation to Mr. Leccese for his 30 years of dedicated service and valuable contributions to education and to the Oceanside community, and I wish him much health and happiness in the years head.

## JOHN PAUL HAMMERSCHMIDT RECEIVES AMVETS SILVER HELMET AWARD

### HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. MONTGOMERY. Mr. Speaker, it was my privilege, during ceremonies this past weekend, to present to our good friend and distinguished colleague JOHN PAUL HAMMERSCHMIDT the prestigious Amvets Silver Helmet Congressional Award.

American veterans of World War II, Korea, and Vietnam [AMVETS], a 200,000-member veterans' service organization, recognizes excellence and significant accomplishments in the areas of congressional service, Americanism, defense, rehabilitation, civil service, and peace through the annual presentation of the coveted award, a silver replica of the World War II GI helmet.

Mr. Speaker, over the 19 years that have passed since we first came to Capitol Hill together, JOHN PAUL and I have developed a close and lasting friendship. I have had the honor of working side by side with him on the Veterans' Affairs Committee and in other matters, and I've seen his dedication and his hard work firsthand. He has been a vocal and effective Member of this great body. It is a pleasure to serve with a gentleman of such integrity and ability.

The veterans of this Nation are fortunate to have JOHN PAUL looking out for them in Washington. As ranking minority member of the House Veterans' Affairs Committee and as a highly decorated veteran of World War II, he has been sensitive to the needs and concerns of all veterans and their families. He is largely responsible for many of the benefits and services now administered by the Veterans' Administration.

JOHN PAUL was honored, as the inscription on the award reads, for "His unparalleled efforts within the Congress of the United States to ensure that all American veterans receive the utmost respect and the full range of entitlements they earned through service to their country."

Mr. Speaker, I would also like to share with my colleagues the words inscribed on the plaque that accompanied JOHN PAUL'S silver helmet:

"JOHN PAUL HAMMERSCHMIDT has distinguished himself for the Amvets Silver Helmet Congressional Award by his unparalleled efforts in the development and support of quality legislation for veterans.

"Congressman HAMMERSCHMIDT, a native of Harrison, AR, has promoted such legislation staunchly and steadily ever since his election to the House of Representatives in 1966, and has intensified this course of action in his current position as ranking minority member of the House Veterans' Affairs Committee.

"He has made special contributions in the areas of service-connected disability benefits and Veterans' Administration health care services.

"As an Army Air Corps pilot in the China-Burma-India theater in World War II, Congressman HAMMERSCHMIDT earned the distinguished flying cross with three oak leaf clusters and the air medal with four oak leaf clusters.

"For his status as both a wartime hero and peacetime friend, AMVETS is pleased to honor JOHN PAUL HAMMERSCHMIDT.

"Presented April 19, 1986. Robert A. Medairos, national commander."

Mr. Speaker, I know my colleagues will want to join with me in applauding JOHN PAUL HAMMERSCHMIDT for his commitment to the Nation's veterans and their families. We also offer our congratulations upon this latest recognition of that commitment.

## THE ROAR OF EUROPEAN HYPOCRISY

### HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. OXLEY. Mr. Speaker, it is rare that two political commentators from opposite poles on the spectrum write so effectively and so poignantly on an issue that affects all of us. I am presenting for my colleagues' attention the following columns by R. Emmett Tyrrell, Jr., and Richard Cohen about the war on terrorism and its effects on all of us.

[From the Washington Post, Apr. 20, 1986]

IN DEFENSE OF OUR CIVILIZATION

(By R. Emmett Tyrrell, Jr.)

In the end, political resolve comes down to a question of character. When the leaders of the French government flinched from allowing American warplanes to fly over French territory en route to Libya, thus condemning American airmen to all the dangers attendant with a military mission made 2,400 miles more arduous, they showed their smallness. In the pinch, Prime Minister Margaret Thatcher displayed nobility; these Frenchmen revealed flawed character.

I wonder if they would have allowed our planes to fly over a more precisely designated route, leapfrogging such places as Ardennes, Suresnes, Rhone, the Lorraine Valley, St. James, St. Laurent and Epinal. All contain military cemeteries where American men lie face up, forever gazing into the skies of France. Surely these men would not object if they were to see once more the underbelly of an American bomber flying far from home to defend the values of the West.

These values will always offend dictators, whether they are the authors of "Mein Kampf," the "Green Book" or whatever other collection of claptrap esotery they compose to warrant their lusts. Against savagery civilization will always need leaders who stand ready.

There have been times when French leaders have shown the requisite readiness. In October 1962, when the United States squared off against the Soviet Union and risked nuclear war over Soviet missiles in Cuba, Britain's Prime Minister Harold Macmillan wavered upon receiving President Kennedy's call. President Charles de Gaulle did not. When Kennedy's emissary, Dean Acheson, sought his cooperation, the Frenchman replied, "If there is a war, France will be with you"; and when Soviet Ambassador Serge Vinogradov belabored him with warnings that he risked the nuclear destruction of France, de Gaulle broke a stony silence, rose from behind his desk, extended a hand in farewell, and said, *"Helas, Monsieur l' Ambassadeur, nous mourirons ensemble! Au revoir, Monsieur l'Ambassadeur."* (Alas, Mr. Ambassador, we'll die together! Goodbye, Mr. Ambassador.)

The regime of Col. Muammar Qaddafi has been an outlaw regime. It might have carried on commerce with Western Europe and other civilized countries, but in the more important province of moral values, it has been hostile to all that they stand for and have stood for during the better part of modern times. Qaddafi's kind of far-flung violence is a threat to the moral order estab-

lished by the West over decades. Qaddafi and like-minded Middle Eastern dictators have made it a matter of policy to murder innocents, even those who have had nothing to do with government or politics.

All the arguments for avoiding our military action against Qaddafi have been heard before. We recognize that some Europeans have profited in commerce with him. It is apparent that some were more exposed to his cowardly terrorists than were most Americans. But the fact remains that he has been a firebrand whose record is one of everygrowing belligerency, violence and cruelty. As Westerners grew more "reasonable," Qaddafi grew more horrible.

The Europeans who expressed disapproval of Washington's strike against Qaddafi must face the grisly fact that as they prospered in commerce with him they contributed to the destruction of the humane values of their civilization. If they are in fact more exposed to terrorists today, experience shows they will be still more exposed tomorrow. Reason conduces to the conclusion that it is both moral and prudent to do today what will with greater difficulty have to be done tomorrow.

Our attack on Libya was but another chapter in the defense of our civilization. It will not be the last. It should have been made by an international force composed of the major victims of Middle Eastern terror. In French Prime Minister Jacques Chirac's remarks after the attack there was just a hint that he recognized this. That would be a good omen.

In this country those of us who defend NATO are sorely pressed by others. They cite frequent European abandonment of us when we needed them and call for an end to our participation in NATO. Then we shall simply bury our dead under American skies.

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THE ROAR OF EUROPEAN HYPOCRISY

(By Richard Cohen)

On July 10, 1985, the Greenpeace ship Rainbow Warrior threatened to sail into the South Pacific to thwart a French nuclear test. While the ship was in New Zeland waters, France responded. Government agents blew up the ship, killing one person on board.

For this act of murder, the appropriate French officials have been reprimanded and those without high rank or political protection prosecuted. For a more cynical use of state power you would have to look pretty hard. But the Champs Elysées did not swell with roaring chants of indignation, and nowhere else in Europe did people take to the streets. No, Europe saves that for the United States.

Now Europe is in a snit about the U.S. bombing of Libya. President Reagan is once again being caricatured as a shoot-from-the-hip cowboy who, in true Western fashion, reached for his six-shooter when the time came to parley. You would think that Reagan had chosen his target by throwing a dart at a map: Bingo! Hit Libya.

The Europeans have their concerns. One of them is economic. Italy, the former colonial power in Libya, does a fair amount of business with it. All the major European countries have citizens who work in Libya, and some of them have substantial construction projects under way. Reagan made sure to warn Americans to get out of Libya; the European countries have issued no such warning to their own citizens.

But the major European concern is terrorism itself. Many Europeans are afraid that retaliating against Muammar Qaddafi is like poking a snake with a stick. This is hardy an irrational fear. In the last year alone, there have been two terrorist incidents in Spain, six in France, three in Greece, four in Germany, three in Italy and one in Austria. Whatever the eventual result of the U.S. bombing might be, in the short term there will be an upsurge of terrorism. Many Americans, quick to condemn European timidity, have themselves canceled plans to travel abroad this summer. For Europeans, things are not so simple. They are already abroad.

Still, those Europeans who are so quick to demonstrate against the United States ought to ask themselves why they did not do the same when the Rome and Vienna airports were littered with the bodies of 16 persons killed by terrorists. Where were they when three members of one American family were blown out of a plane over Greece? Why no widespread European indignation when 18 Spaniards were killed in the Madrid bombing of a restaurant frequented by U.S. servicemen?

Where was the march for the bombing last month that killed two persons in Paris, the one Feb. 5 in a Parisian shopping mall, the bomb that exploded in a crowded Latin Quarter bookstore the day before or the one that exploded Feb. 3 on the Champs Elysées, wounding eight persons? Who marched for the Achille Lauro and Leon Klinghoffer, for the TWA hijacking and Navy diver Robert Stethem or for the 57 who died when commandos botched an attempt to free the passengers on an Egyptair plane forced to land on Malta? No one, that's who.

It's true that not all these terrorist incidents can be traced to Libya—not even most of them—and it's true also that in both France and Italy there were public protests against terrorism directed against Jewish targets. But by and large, those Europeans who are inclined to exhibit their political opinions by marching did not hit the road until U.S. bombs hit Tripoli. Then, as if the event took place in a vacuum, a roar came up from the pavement.

You can argue over the wisdom of the bombing. You can argue over the manner of its execution. You can fear for American standing in the Middle East, for whether the lessons of Libya will be misapplied to Nicaragua. But you cannot treat the bombing as if it were an unprovoked, irrational act—as if it had not been preceded by many bombings, years of carnage and a constant plea from the United States to the European nations to punish Libya economically. The response was a cynical shrug of the shoulders by those same European nations.

There are a thousand concerns to be voiced. But you cannot voice an outrage that does not take into account all that went before—terrorist acts all over the world and, finally, the one that took the life of an American soldier April 5 in West Berlin. European anti-Americanism is plain to the ear. The sound of silence has been replaced by the roar of hypocrisy.

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## 1986 CALL TO CONSCIENCE VIGIL

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### HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. PORTER. Mr. Speaker, it is an honor for me to participate in this year's call to conscience vigil. This annual event reinforces the congressional commitment to working on behalf of the hundreds of thousands of Soviet Jews who desire to emigrate to Israel but cannot. However, despite the optimism that surrounded the atmosphere in Geneva and the symbolic presummit gestures, and even despite the recent release of Anatoly Shcharansky, the overall situation for Jews living in the Soviet Union remains dismal. Monthly emigration levels are very bleak and harassment of people expressing their religious beliefs is a constant occurrence.

I would like to, once again, call my colleagues' attention to the problems facing Tatiana and Zachar Zunshine. The Zunshines first applied to emigrate to Israel in 1981. Their nightmare began on March 6, 1984, when Zachar began serving his 3 year sentence for alleged crimes committed against the Soviet state. Mr. Speaker, the only crime Zachar committed was that he expressed a desire to leave the Soviet Union and go with his wife to live in Israel.

Since Zachar's imprisonment, he has been subject to efforts by Soviet authorities to break his spirit. His physical health has been worsening steadily. Unsterile procedures and unsanitary practices of the camp medical staff have contributed to Zachar's deteriorating health. But in turn, as Zachar's condition weakens, Tatiana has gained strength in the struggle that she is waging on her husband's behalf.

Recently Tatiana requested that bars of soap be sent to Zachar in prison since he is only allowed to have soap to wash his hands once every few weeks. Due to these unsanitary conditions, he contracted a case of infectious B hepatitis in December. He is now susceptible to any bacterial illness because of his low resistance. According to information I have received, thousands of bars of soap were sent to Zachar at the Bazoi camp signifying that people around the world rallied behind the single voice of Tatiana Zunshine. Tatiana's courage and determination should be inspiration to all of us to continue the fight, as she had decided to stand up and take on the people who are so determined to break her. She will not be broken.

Tatiana is also regularly harassed and threatened by the Soviet authorities. Earlier this year, she was isolated from her Western contacts and her travel within the Soviet Union was restricted. Later this week Tatiana will attempt to visit Zachar, on his birthday, but this simple request will no doubt cause the officials of the camp some problems.

The situation facing Tatiana and Zachar Zunshine reminds us that we must continue to join in efforts with the brave individuals of the Soviet Union, who are fighting for their freedom and survival every day. Mr. Speaker, as Jews around the world sit down to their Passover seders this week, let us pray that the Zunshines might celebrate Passover "next year in Jerusalem" with the many other Soviet Jews, yearning to be free.

## DON'T LET THE AMERICAN PEOPLE FALL THROUGH THE TRAPDOOR: INTRODUCTION OF AUTO SAFETY LEGISLATION

**HON. FORTNEY H. (PETE) STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 21, 1986*

Mr. STARK. Mr. Speaker, today, I am introducing legislation that will close a trapdoor devised by the Department of Transportation which would prevent the American people from benefiting from passive restraint systems in motor vehicles.

I am proposing that we tax cars that do not have passive restraints and return that money to those who purchase vehicles with passive restraints.

Since 1969, the Department of Transportation [DOT] has made multiple regulatory proposals which would have required the installation of automatic restraint devices in passenger cars. After many delays, and about 200,000 preventable auto passenger deaths, we currently have a regulation which may result in no requirement for the installation of automatic restraints.

The current DOT regulation, FMVSS 208, calls for the installation of automatic restraints in 10 percent of new vehicles starting in September 1986. All new vehicles would be required to have automatic restraints by September 1989. However, if two-thirds of the U.S. population is covered by State mandatory seatbelts by April 1989, then the trapdoor will open and the requirement for passive restraints will be dropped.

A poll of the American people indicates that they want passive restraints in addition to mandatory seatbelt use laws. By their actions, the members of State legislatures around the country have also indicated that they want passive restraints and mandatory seatbelt use laws. All of the State laws passed to date have been out of compliance that DOT set up in July 1984 for mandatory seatbelt use laws. In fact, several of the mandatory seatbelt use laws have sunset provisions which revoke them if they are counted toward the DOT goal of two-thirds of the U.S. population.

We need better safety devices because motor vehicle collisions are one of the leading causes of death and injury in the Nation. For children and young adults, motor vehicle collisions are the leading cause of death and injury; and they are the fourth most common cause of death for all age groups. Nationally, over 27,000 people die each year as occupants of passenger cars.

The numbers of nonfatally injured motor vehicle occupants are even more staggering: about 13,000 people are injured each day, more than 4.5 million each year.

Motor vehicle related trauma is second only to cancer in economic cost to the country. Motor vehicle collisions produce more paraplegics and quadraplegics each year than all other causes combined and are a leading cause of new cases of epilepsy. The direct costs, which amount to nearly $40 billion per year, include the direct costs of emergency care, acute care and rehabilitative care. Governments at all levels must bear increased costs of welfare, Social Security and other programs. As Ways and Means Health Subcommittee chairman, I believe increased auto safety can help reduce some of the staggering costs of the Social Security Disability/Medicare Programs. Industry also bears the costs of lost time and increased insurance expenses.

There is scientific information which indicates that mandatory seatbelt laws, even if they covered the whole population would not be as effective in protecting life and limb as the installation of passive restraints would eventually become. Massive police enforcement activities—which would not be acceptable to most Americans—are required in order to obtain seatbelt utilization rates over 70 percent. Uniform enforcement would be difficult to achieve because of the thousands of police departments in our country. On the other hand, passive restraints require nothing on the part of the individual to be protected in the event of a collision. Even with a mandatory seatbelt law, the individuals most likely to be in motor vehicle collisions are the ones least likely to wear their belts. This includes young male drivers and others who are more likely to drive at high speed or to drive while introxicated. In these situations, passive restraints should be present and protective.

All of the issues noted above must be taken into consideration in a legislative proposal. I want to ensure that all Americans eventually become protected by the best that our technology has to offer: passive restraints. Therefore, I have drafted a bill that will allow the genius of our engineers to develop a variety of passive restraint devices and a bill that will provide a marketplace incentive for the installation of those devices.

The bill will initially require only the protection of front seat occupants in collisions at 30 miles per hour or less. Eventually, it will require protection of rear seat occupants and the protection of passengers in higher speed collisions. The only limitation on the type of restraint is that the device cannot be detached or deactivated by the vehicle owner. Vehicles manufactured on or after September 1, 1989, which do not meet these criteria will have an excise tax placed on them. The tax is set so that the increased price of the unsafe vehicle will be approximately equal to the cost of purchasing a vehicle with the best currently available passive restraint. In addition, the bill requires the Secretary of the Treasury to return the money collected from those purchasing unsafe vehicles to those purchasing safe vehicles by establishing a payment from the Treasury to the purchasers of such vehicles.

There is nothing in my proposal which will preclude State legislatures from continuing to pass mandatory seatbelt use laws.

Nearly 20 States have these laws at the current time. Such laws, to the extent that they are effective, are to be encouraged. Mandatory use laws and passive restraint systems are compatible.

The system which the DOT will use for judging the acceptability of the mandatory seatbelt use laws for the purposes of FMVSS 208 are another point of contention and another reason for my proposal. In July 1984, DOT announced that it would rule on each mandatory seatbelt use law as it was passed. It subsequently announced that it would "make that determination probably some time before April 1989." In November 1985, the Secretary of Transportation announced that she would rule on mandatory seatbelt use laws very shortly. The current DOT position seems to be to await the outcome of the pending case in the District of Columbia Circuit Court of Appeals on the passive restraint regulation (FMVSS 208). In other words, I do not think that we have any idea what the Department of Transportation will do in regard to this issue. We need this bill so that the DOT knows that the American people are serious in their quest for motor vehicle safety, and we should have this in place if the DOT decides to spring its trapdoor.

My proposal will protect the lives and health of Americans. It will also result in a savings to insurance companies, local, and State governments, and the Federal Government.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, April 22, 1986, may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### APRIL 23

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1987 for ACTION (domestic programs), Corporation for Public Broadcasting, National Council on the Handicapped, Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, and the National Center for the Study of Afro-American History and Culture.

SD-116.

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Bureau of Investigation and Drug Enforcement Administration, Department of Justice, and the Equal Employment Opportunity Commission.
S-146, Capitol

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1987 for the National Aeronautics and Space Administration, focusing on the space station program.
SR-253

Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

Labor and Human Resources
To hold hearings on S. 1815, to prohibit any employer from using any lie detector test or examination in the work place, either for pre-employment testing or testing in the course of employment.
SD-430

Rules and Administration
To hold hearings on proposed legislation authorizing funds for fiscal year 1987 for the Federal Election Commission.
SR-301

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Navy aircraft procurement programs.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the United States Railway Association and Conrail.
SD-138

Armed Services
Defense Acquisition Policy Subcommittee
Business meeting, to mark up S. 2082, to improve the management of major defense acquisition programs, to establish a Defense Acquisition Service, and to limit employment contracts between senior officials of the Department of Defense and defense contractors, S. 2151, to establish within the Office of the Secretary of Defense an Office of Defense Acquisition for the centralized procurement of all property and services for the Department of Defense and to provide for an Under Secretary of Defense Acquisition, S. 2196, to improve procedures for the acquisition of spare and repair parts for the Department of Defense, and related proposals.
SR-222

Energy and Natural Resources
Business meeting, to resume markup of S. 1225, to compensate the public for injuries or damages suffered in the event of an accident involving nuclear activities undertaken by the Nuclear Regulatory Commission licensees or Department of Energy contractors, and other pending calendar business.
SD-366

Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

Judiciary
Security and Terrorism Subcommittee
To hold hearings to examine legal mechanisms to combat terrorism.
SD-226

Joint Economic
Monetary and Fiscal Policy Subcommittee
To hold hearings to review European agricultural trade practice.
SD-106

Joint Economic
Trade, Productivity, and Economic Growth Subcommittee
To hold hearings on the impact and efficiency of Federal welfare policies.
2359 Rayburn Building

1:30 p.m.
Foreign Relations
To continue oversight hearings on activities of the Agency for International Development.
SD-419

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold closed hearings to review atomic energy activities of the Department of Defense.
S-126, Capitol

Commerce, Science, and Transportation
To hold hearings on the nomination of James C. Fletcher, of Virginia, to be Administrator of the National Aeronautics and Space Administration.
SR-253

Environment and Public Works
To hold hearings on the nomination of Frank H. Dunkle, of Montana, to be Director of the U.S. Fish and Wildlife Service, Department of the Interior.
SD-406

Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

Judiciary
To hold hearings on pending nominations.
SD-226

3:00 p.m.
Armed Services
Military Construction Subcommittee
Closed business meeting, to discuss the Navy's strategic homeporting initiative.
SR-222

APRIL 24

9:00 a.m.
Armed Services
Strategic and Theater Nuclear Forces Subcommittee
To hold open and closed hearings on anti-tactical ballistic missile activities.
SR-222

9:30 a.m.
Agriculture, Nutrition, and Forestry
Rural Development, Oversight, and Investigations Subcommittee
To hold hearings on S. 1121, to encourage foreign agricultural trade by improving the quality of grain shipped from U.S. export elevator facilities.
SR-332

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

Foreign Relations
To continue oversight hearings on activities of the Agency for International Development.
SD-419

Labor and Human Resources
Labor Subcommittee
To hold hearings of S. 1018, to clarify the meaning of the term "guard" for the purpose of permitting certain labor organizations to be certified by the National Labor Relations Board as representatives of employees other than plant guards.
SD-430

10:00 a.m.
Appropriations
Business meeting, to mark up provisions of H.R. 4515, making urgent supplemental appropriations for the fiscal year ending September 30, 1986.
SD-192

Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on S. 1322, proposed Geothermal Steam Act Amendments of 1985.
SD-366

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 1662, proposed Training Technology Transfer Act of 1985.
SD-628

Joint Economic
Trade, Productivity, and Economic Growth Subcommittee
To hold hearings on U.S./Japanese trade policy regarding auto parts.
SR-385

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Energy Information Administration and the Economic Regulatory Administration, Department of Energy.
SD-192

Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.

APRIL 25

9:30 a.m.
Finance
Health Subcommittee
To hold hearings on proposals to modify the Medicare physicians payment system.
SD-215

10:00 a.m.
Governmental Affairs
Civil Service, Post Office, and General Services Subcommittee
To resume hearings on S. 1327, to establish higher minimum rates of basic pay in geographic areas where the Federal Government is experiencing significant recruitment and retention problems, S. 1727, to establish alternative personnel management systems for scientific and technical employees, and provisions of S. 2082, to improve the management of major defense acquisition programs, to establish a Defense Acquisition Service, and to limit employment contacts between senior officials of the Department of Defense and defense contractors.
SD-342

Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1987 for the Immigration and Naturalization Service, Department of Justice.
SD-226

2:00 p.m.
Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

APRIL 28

9:30 a.m.
Judiciary
To hold hearings on S. 2163, to make necessary and appropriate amendments to the antitrust laws governing service by any person as a director of two or more competing corporations engaged in interstate commerce.
SD-226

10:30 a.m.
Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

2:00 p.m.
Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

APRIL 29

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1987 for the Department of Agriculture, focusing on the Farmers Home Administration.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for certain defense programs.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Housing and Urban Development and certain independent agencies.
SD-124

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings on proposed budget requests for fiscal year 1987 for the Department of Energy, focusing on nuclear activities.
SD-366

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Bureau of Indian Affairs, Department of the Interior.
SD-192

Environment and Public Works
To hold hearings on domestic and international oil pollution issues.
SD-406

Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 2214, to prohibit criminal penalties for violations of the financial disclosure provisons of the Ethics in Government Act of 1978.
SD-342

APRIL 30

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of U.S. Trade Representative, and the Federal Communications Commission.
SD-146, Capitol

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the findings of the Presidential Commission on the Space Shuttle Challenger Accident.
SR-253

Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

Labor and Human Resources
To hold oversight hearings on the human resources impact of reentry of women into education and the labor force.
SD-430

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation authorizing funds for programs of the Federal Insecticide, Fungicide, and Rodenticide Act.
SR-332

Appropriations
HUD-Independent Agency Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Housing and Urban Development and certain independent agencies.
SD-124

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Foreign Relations
To hold hearings on embassy security enhancement.
SD-419

Governmental Affairs
Civil Service, Post Office, and General Services Subcommittee
To resume hearings on S. 1327, to establish higher minimum rates of basic pay in geographic areas where the Federal Government is experiencing significant recruitment and retention problems, S. 1727, to establish alternative personnel management systems for scientific and technical employees, and provisions of S. 2082, to improve the management of major defense acquisition programs, to establish a Defense Acquisition Service, and to limit employment contacts between senior officials of the Department of Defense and defense contractors.
SD-342

Judiciary
Security and Terrorism Subcommittee
To resume oversight hearings on certain activities of the Federal Bureau of Investigation, Department of Justice.
SD-226

2:00 p.m.
Agriculture, Nutrition, and Forestry
To continue hearings on proposed legislation authorizing funds for programs of the Federal Insecticide, Fungicide, and Rodenticide Act.
SR-332

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Food and Drug Administration of the Department of Health and Human Services, and the Commodity Futures Trading Commission.
SD-138

Armed Services
Preparedness Subcommittee
To resume open and closed hearings on S. 2199, authorizing funds for fiscal year 1987 for the Department of Defense, focusing on the National Strategic Stockpile; and to mark up S. 2102, to prescribe the method for determining the quantity and classification of any materials to be stockpiled under the Strategic and Critical Materials Stock Piling Revision Act (P.L. 96-41).
SR-222

Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

MAY 1

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116
Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for certain defense programs.
SD-192
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987, focusing on environmental implications of Multilateral Development Bank lending policies.
SD-124
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold oversight hearings on the impact of coal and electricity imports on the domestic coal industry.
SD-366

10:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 571, proposed Drug Money Seizure Act.
SD-538

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for territorial affairs, Department of the Interior.
SD-192
Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

MAY 2

9:30 a.m.
Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

2:00 p.m.
Finance
Business meeting, to mark up proposed legislation providing for revisions in Federal tax laws.
SD-215

MAY 5

1:30 p.m.
Finance
International Trade Subcommittee
To hold hearings on miscellaneous tariff bills.
SD-215

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings to review the Department of Energy nuclear research and development program policy.
SD-366

MAY 6

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for Air Force aircraft procurement programs.
SD-192

MAY 7

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Supreme Court of the United States, U.S. District Courts/Courts of Appeals, and the Commission on the Bicentennial of the U.S. Constitution.
S-146, Capitol
Labor and Human Resources
To hold oversight hearings on medical malpractice.
SD-430

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Urban Mass Transportation Administration, Department of Transportation, and the Washington Metropolitan Area Transit Authority.
SD-138
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

MAY 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1987 for the National Aeronautics and Space Administration, focusing on the space transportation system.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for strategic systems.
SD-192
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Federal Aviation Administration, Department of Transportation.
SD-138

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Holocaust Memorial Council and the Smithsonian Institution.
SD-192
Judiciary
To resume hearings on white collar crime in the United States, focusing on the E.F. Hutton investigation.
SD-226

MAY 9

9:30 a.m.
Finance
Health Subcommittee
To hold hearings to examine the condition of rural hospitals under the Medicare program.
SD-215

MAY 13

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business items.
EF-100, Capitol

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on proposed legislation authorizing funds for the U.S. Coast Guard, and H.R. 1362, to revise, consolidate, and enact certain laws related to load lines and measurement of vessels as parts C and J of subtitle II of title 46, U.S. Code.
SR-253

MAY 14

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Health Resources and Services Administration, Department of Health and Human Services.
SD-116

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Legal Services Corporation, and the Securities and Exchange Commission.
S-146, Capitol

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Transportation and certain related agencies.
SD-138

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings on S. 525, to provide for the transfer to the Secretary of Health and Human Services the authority of the Secretary of Energy to conduct epidemiological studies of radiation effects.
SD-342

MAY 15

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Labor, Health and Human Services, and Education, and certain related agencies.
SD-116

Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2050, to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers.
SD-430

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of State, focusing on voluntary contributions to international organizations programs, and for the Office of the U.S. Representative to the United Nations.
SD-124

Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold oversight hearings on the prospects for exporting American coal.
SD-366

1:00 p.m.
Judiciary
Security and Terrorism Subcommittee
To resume oversight hearings in closed session on activities of the Drug Enforcement Administration, Department of Justice.
S-407, Capitol

2:30 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for fossil energy and clean coal technology.
SD-192

MAY 16

10:15 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on proposed legislation authorizing funds for the Maritime Administration, Department of Transportation, and proposed legislation authorizing funds for the Federal Maritime Commission.
SR-253

MAY 20

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Indian Health Service, Department of Health and Human Services.
SD-192

MAY 21

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the U.S. Information Agency, and the National Endowment for Democracy.
S-146, Capitol

Labor and Human Resources
To hold oversight hearings on strategies to reduce hunger in America.
SD-430

MAY 29

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Office of the Secretary and Office of the Solicitor, Department of the Interior.
SD-192

JUNE 3

10:00 a.m.
Energy and Natural Resources
To hold oversight hearings on the implementation of the Public Utility Regulatory Policies Act (P.L. 95-617).
SD-366

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings on statistical policy for an aging America.
SD-342

JUNE 4

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Departments of Commerce, Justice, and State, the Judiciary, and certain related agencies.
S-146, Capitol

Labor and Human Resources
To hold oversight hearings to review the imposition of user fees in FDA approval procedures for new drugs.
SD-430

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on S. 1935, to provide for certain vessels to be documented under the laws of the United States to entitle them to engage in domestic coastwide trade.
SR-253

JUNE 11

9:30 a.m.
Labor and Human Resources
To hold hearings on pending nominations to the National Advisory Council on Women's Educational Programs.
SD-430

JUNE 12

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume joint oversight hearings with the House Committee on Education and Labor's Subcommittee on Elementary, Secondary and Vocational Education on illiteracy in America.
2175 Rayburn Building

JUNE 17

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2055, to establish the Columbia Gorge National Scenic Area.
SD-366

Labor and Human Resources
To resume oversight hearings on medical malpractice.
SD-430

JUNE 18

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JUNE 25

9:30 a.m.
Labor and Human Resources
To hold hearings on the administration of the Mine Safety and Health Review Commission.
SD-430

JULY 16

9:30 a.m.
Labor and Human Resources
To hold hearings on measures to improve the health of children.
SD-430

JULY 17

9:30 a.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and

Productivity on work and welfare issues.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

JULY 22

9:30 a.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To resume joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on work and welfare issues.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To resume joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

JULY 30

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

AUGUST 13

9:30 a.m.
Labor and Human Resources
To hold hearings to review the private sector initiatives in human services.
SD-430

SEPTEMBER 10

9:30 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 16

9:30 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 24

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

## CANCELLATIONS

APRIL 22

9:30 a.m.
Judiciary
To hold hearings to examine the constitutionality of certain penalties imposed on individuals or companies which submit certain false claims to the government.
SD-226

APRIL 23

10:00 a.m.
Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings on S. 2009, to require that Federal employees be paid by electronic funds transfer or any other economical or effective method.
SD-342

APRIL 24

10:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1987 for intelligence programs.
S-407, Capitol

APRIL 25

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on the impact of proposed budget estimates on health research programs.
SD-138

APRIL 29

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 2105, S. 2106, and S. 2107, bills to provide for the settlement of certain claims of the Papago Tribe of Arizona.
SR-385

MAY 1

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on employee benefit and pension policy implications contained in proposed tax reform legislation.
SD-430